

**“It is not only the Guilty who Suffer”**  
Exploring gender, power and moral politics  
through the Contagious Diseases Acts in the  
Cape Colony, c1868 - 1885

by  
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## **Declaration**

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### **Abstract**

This study deals with the build-up to, and resultant reactions against, regulating sexual practices in the Cape Colony, especially the Contagious Diseases Acts in 1868 and 1885. The focus will be on the existence of venereal disease as a colonial epidemic. The wider context in terms of Britain, India, Hong Kong, Singapore and Australia will also be taken into account. The research is based on a theoretical framework made up of three components; gender, power and moral politics. The role of gender will be looked at through the existence of the double standard and the prostitute. Power and the existing relations between the colonies and the colonisers will be looked at by addressing the issue of race, superiority and the exportation of the colonial mindset. Moral politics will be analysed through the discussion of purity campaigns, women's role in society and the medical aspect of politics. Within this thematic framework, the focus of the study will then move to the Cape Colony and the existence of regularity practices there. This study seeks to establish the ways in which regulation developed at the Cape and in doing so hopes to contribute to the existing historiography.

### *Opsomming*

Hierdie studie fokus op die aanloop tot en die daaropvolgende reaksies ten opsigte van regulatoriese sekspraktyke, waarvan die bekendste die Aansteeklike Siektes Wette van 1869 en 1885 was. Daar word na die bestaan van veneriese siekte as 'n koloniale epidemie gekyk. Die breër konteks van Brittanje, Indië, Hong Kong, Singapoer en Australië word ook in ag geneem. Die navorsing is gebaseer op 'n teoretiese raamwerk van drie komponente: geslagtelikheid ("gender"), mag en morele politiek. Die rol van geslagtelikheid word betrag na gelang die bestaan van dubbele standaarde en die prostituut. Mag en die bestaande verhoudinge tussen die koloniseerders en die wat gekoloniseer, word aangespreek deur te let op die kwessie van ras, meerderwaardigheid en die toepassing van 'n koloniale denkpatroon. Morele politiek word ontleed deur te let op die bespreking van kuisheid kampanjes, vroue se rol in die samelewing en die mediese aspekte van politiek. Binne hierdie teoretiese raamwerk word die bestaan van regulatoriese praktyke in die Kaapkolonie bespreek. Die studie poog om vas te stel op welke wyses regulatoriese praktyke in die Kaapkolonie ontwikkel het en sodoende word gepoog om 'n bydrae tot die bestaande historiografie te maak.

## **Table of Contents**

<b><u>Declaration</u></b>	<b>i</b>
<b><u>Abstract</u></b>	<b>ii</b>
<b><u>Opsomming</u></b>	<b>iii</b>
<b><u>Table of Contents</u></b>	<b>iv</b>
<b><u>List of Figures</u></b>	<b>vi</b>
<b>1. <u>Introduction</u></b>	<b>1</b>
1.1. Focus and Structure	
1.2. Literature Review	
1.3. Methodology	
<b>2. <u>Sexual regulation as a Political Manoeuvre</u></b>	<b>22</b>
2.1. The Affairs of Man	
2.2. Venereal Disease and the Powers that be	
2.2.1. It always starts at home: the case of Britain	
2.2.2. The Pride of the Empire: British India	
2.2.3. The Murky waters: Hong Kong	
2.2.4. The Unhealthiest Spot: Singapore	
2.2.5. The Black Sheep: Australia	
2.3. Conclusion	
<b>3. <u>The Concepts, Influences and Aspects: A Theoretical Study</u></b>	<b>45</b>
3.1. Introduction	
3.2. Gender: ‘The Domestic Thesis’	
3.3. Power: ‘The White Man’s Burden’	
3.4. Moral Politics: ‘The Growth of an Idea’	
3.5. Conclusion	
<b>4. <u>Sexual Regulation in the Cape Colony c.1864 – 1885</u></b>	<b>63</b>
4.1. Introduction	
4.2. Venereal Disease in the Cape Colony	
4.3. The Rise of Regulation	

4.3.1. The Act of the Prevention of Contagious Diseases	
<b>4.4. Regulation in Action</b>	
4.4.1. The Age Debate	
4.4.2. The Trafficking of Women	
<b>4.5. The Decline of Regulation</b>	
4.5.1. An Act to Repeal the Act of 1868	
<b>4.6. The Colony without Regulation</b>	
<b>4.7. Conclusion</b>	
<b>5. <u>Sexual Regulation in the Cape Colony c.1885 – 1899</u></b>	<b>97</b>
<b>5.1. Rethinking Regulation</b>	
5.1.1. Amending the Act	
5.1.2. The Select Committee	
<b>5.2. The results of Regulation</b>	
5.2.1. Dividing the Sexes	
5.2.2. The Cost of Control	
5.2.3. Blurring the Boundaries	
5.2.4. The Continental Cape	
<b>5.3. The Final Years</b>	
<b>5.4. Conclusion</b>	
<b>6. <u>Conclusion</u></b>	<b>133</b>
<b><u>List of References</u></b>	<b>137</b>

### *List of Figures*

Table 4.1: Register under the Contagious Diseases Prevention Act No. 25 of 1868 for the month 9 <sup>th</sup> – 31 <sup>st</sup> October 1868.	73
Graph 4.1: The various race groups found on the Register under the “Contagious Diseases Prevention Act no 25 of 1868.”	74
Table 4.2: Admissions for January 1879 – January 1880	87
Table 4.3: No. of Admission from Venereal Diseases, Compared to the other Diseases at Station Hospital Cape Town (20 <sup>th</sup> Feb – 9 <sup>th</sup> April 1880)	89
Table 4.4: No. of Patients (furnished by Garrison of Cape Town) in Station Hospital (February 20 <sup>th</sup> – April 9 <sup>th</sup> ) who suffered from Venereal Disease compared with the No of patients suffering other diseases.	90
Table 4.5: No. of Admissions from Venereal Disease as compared to other disease at Station Hospital, during the first 6 months of 1880.	91
Table 4.6: No. of Admissions from Venereal Disease as compared to other disease at Station Hospital during period 1 <sup>st</sup> July to 30 <sup>th</sup> November.	92
Table 4.7: Statistics of Venereal Disease amongst Troops composing Garrison at Cape Town, for 11 months of year 1880.	92
Table 5.1: The Contagious Diseases Act in Cape Town, 1893.	102
Graph 5.1: Comparison between Rohel Kahn and Cape Town syphilis admissions	108
Figure 5.1: Form B, No 33 from the Emma Contenti case files.	116

## Chapter One:

### Introduction

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In the middle of the nineteenth century the British Empire was rapidly expanding around the world. However as it was gaining strength in numbers, the Empire was facing a crisis of a moral nature, one that would take them on a journey that has yet to end. As the era of European world supremacy was settling in to its stride it became largely evident that the expansion was, in the words of Ronald Hyam, “not only a matter of Christianity and commerce, it was also a matter of copulation and concubinage.”<sup>1</sup> As military, soldiers and merchant men swarmed into foreign lands, the world seemed like an open book, new discoveries, different nations and interesting people urged on the growth and development of the Empire. The colonial era of the British Empire has had lasting effects on, not only the colonies that it claimed, but also on the rest of the world. Trading between countries, the spread of knowledge and ideals, as well as the stringent notions of the Victorian and Edwardian eras have made impenetrable impressions. Spread far and wide, from the mysterious Eastern world of India and Asia, to the more vast and desolate outback of Australia to the convenience and ideal climates of the Americas and Canada. It was here that South Africa became a sought after location for the British; an ideal trading post for those travelling between the East and Europe.

The British Empire was often regarded as a place of masculine dominance. In most discussions that occur regarding the colonial life of the British in the Empire, the key aspect dominant throughout was the concern and focus of the male. Although women were seen to be involved through their husbands or fathers, they travelled, lived and often worked in it too. Although not avoidable the presence of women, and often the local colonial people were viewed more as a nuisance to good rule<sup>2</sup> than anything else. Although the presence of women in the Empire was inevitable, it was here that the military, as well as the policies of the Empire, faced one of their biggest challenges. As the Empire spread its fingers of influence around the world, so too, did it make its occupancy known by instilling military where ever it sought control. However eager and

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<sup>1</sup> Ronald Hyam, *Understanding the British Empire*, (Cambridge: Cambridge University Press, 2010), 364. Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 2.

<sup>2</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (Harlow: Pearson Education Limited, 2007), 142.



adventurous these men started out, the journey of a military man in the Empire was hardly ever as exciting as advertised. The colonies were often hot and clammy in temperature, people foreign and languages unknown. Men spent hours in their garrison quarters passing the time between shifts, bored. One of the means that men reverted to was that of drunken debauchery. Taverns and brothels sprang up wherever the military settled, and a life of immorality, seeking out alcohol and the warm bosom of a woman soon became seen as an essential part of life in a colony. Levine suggested a well-illustrated notion that “prostitution was a critical artifact of colonial authority, a trade deemed vital to governance but urgently in need of control.”<sup>3</sup>

This control, however, became a rather troublesome area for both the military and the policy makers. Prior to the boom of regulation in the 1850s, most of the British colonies, as well as areas of Britain itself, had varying forms of regulation in place already.<sup>4</sup> Discussions revolving around India and the Strait Settlements have illustrated that forms of regulation did indeed exist, prior to the infamous Contagious Diseases Acts. However it was within the policies and implementations of these Acts that much of the history regarding gender, sexuality, race, and politics found new life. The Acts can be seen as a catalyst for the voice of the female during the 19<sup>th</sup> century, speaking on aspects of society that previously, and too an extent still were, very much taboo subjects. The role of the female prostitute became the symbol around which female virtue, presence and ability was evolved. The fine balance between want and need became blurred with regards to the presence of the prostitute, especially in the colonies. The military was hesitant to enlarge the wages of the military men in order for them to marry and set up homes and families in the colonies. This led to an abundance of single men in these foreign spaces and those in charge began to worry about the interactions between their men and the indigenous women. Racial supremacy was not alone in the cause for concern though, an alarming increase in cases of venereal disease among members of the military spurred on this need to enforce order in this contradictory business.

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<sup>3</sup> Richard Phillips, *Sex, Politics and Empire: A postcolonial geography*, (Manchester: Manchester University Press, 2006), 2.

<sup>4</sup> Philip Howell, “A private Contagious Diseases Act: prostitution and public space in Victorian Cambridge,” *Journal of Historical Geography* 26, no 3 (2000), 376–402 & Philip Howell, “Prostitution and racialised sexuality: the regulation of prostitution in Britain and the British Empire before the Contagious Diseases Acts,” *Environment and Planning D: Society and Space* 18, (2000), 321 – 339

Due to the ebb and flow of traffic in and out of the colonies, venereal disease spread like wildfire. The immoral lifestyle of the soldiers, sailors and traders enroute around the Empire meant that each military transfer or trade stop became a hub for contagious disease transfers. Those in charge saw prostitutes, the business of brothels and clandestine women as the main causes of venereal disease. In order to keep their men clean and healthy they turned to forms of regulation. The most famous of which are the Contagious Diseases Acts which were rolled out in the early 1860s. These Acts were a means of controlling and regulating prostitutes so that those who serviced the military were healthy and clean of syphilis and gonorrhoea, thus not being a threat of infection. The Acts however ran far deeper than this. With accusations of dominance, racial superiority and the inability to control masculine vice at the core of many arguments, the Contagious Diseases Act became fundamental in a discussion that is still happening.

Many a British colony has enjoyed the attention of historians in their quest to find understanding and exploration into the various fields concerning the Empire and its people. Spanning across a number of historiographies, the focus of the British Empire has triggered studies on aspects such as politics, military presence and warfare. However in recent<sup>5</sup> discussions the focus has turned to a more female orientated history. It is in these discussions that topics such as gender, race and, sexuality became popular. The theories in this research particularly focus on gender, power and moral-politics<sup>6</sup> and they are used to compare and contrast the interaction of historical narratives between the well documented colonies of India, Singapore, Hong Kong and Australia, with the Cape Colony, an area that has been largely overlooked<sup>7</sup> in this particular discussion.

### 1.1. Focus and Structure

Through the analyses of these four colonies, India, Singapore, Hong Kong and Australia, as well as Britain itself, this study seeks to compare the resultant events which emerged due to the increase in venereal disease, the public acknowledgement of the prostitution sector and the

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<sup>5</sup> Discussions focused on the female presence, sexuality and gender found foothold in the early 1980s with historians such as Judith Walkowitz.

<sup>6</sup> Moral-politics is a term derived from theoretical work done by Frank Mort in *Dangerous Sexualities: Medico-moral Politics in England since 1830*, (London: Routledge, 2000).

<sup>7</sup> Although historians, such as Percy Ward Laidler, Michael Gelfand, Karen Jochelson, Catherine Burns and Liezl Guam, to name a few, have touched on this subject, it is often briefly mentioned as part of a larger discussion. Elizabeth Van Heyningen brought attention to the specific topic of the Contagious Diseases Acts in her article, "The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts," *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 170-197. She is among the few have done so.

subsequent imposition on societal ideals. This study is specifically concerned with the build-up to and resultant reactions against regulatory practices, the most famous of which was the implementation of the Contagious Diseases Acts in 1868 and 1885. Regulatory practices, specifically those concerned with the spread of venereal diseases through the interaction between prostitutes and clients all exist within a broader study of social history. Sub-disciplines of this historical field, such as political, military, health as well as gender, all intertwine to create a better understanding of the events that took place. Thus, when focusing on the regulation of vice and disease, it is pivotal to understand the interplay between gender, power and moral politics. The treatment of sexuality and power, as well as the role of women in an ideal Victorian society is pivotal to the importance of the study of the Contagious Diseases Acts.

This study will be separated into three main areas of concern. Firstly the focus will be placed on the existence of venereal disease as a colonial epidemic. Looking at Britain itself the background to the creation of the Contagious Diseases Acts will be explored. The focus will then turn to the presence of Britain in four different colonies. India, Hong Kong, Singapore and Australia will all be discussed in terms of disease, sexual presence and the role of the British standard in the colony. The Colonies have been selected due to the existence of varying research already done on the colonies, as well as the clear contrasts or similarities existing between the colony and South Africa. The research and discussion concerning these colonies will form the basis for the following area of focus. In Chapter three the three main themes of this research, gender, power and moral politics, will be explored. The role of gender as an important thematic component will be looked at through the existence of the double standard and the prostitute. Power and the existing relations between the colonies and the colonisers will be looked at by addressing the issue of race, superiority and the exportation of the colonial mindset. Moral Politics, a term coined by Frank Mort in his study of Medicine, morals and politics,<sup>8</sup> will be further analysed in the context of the Contagious Diseases Acts, through the discussion of purity campaigns, women's role in society and the medical side of politics.

Within this thematic framework, the focus of the study will then move to the Cape Colony and the existence of regularity practices. This study ultimately seeks to explore the existence of, and reactions to, the Contagious Diseases Acts in the Cape Colony. Through research into archival sources this study seeks to find out if a similar problem with regulation and prostitution existed in

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<sup>8</sup> Frank Mort in *Dangerous Sexualities: Medico-moral Politics in England since 1830*, (2000).

the Cape Colony. As well as to consider if there was a prominent presence of regulatory practices and resultant dissatisfaction with the existence of regulations such as the Contagious Diseases Acts and if so why has it not gained as much attention with the narratives concerning this subject? How did the Cape Colony differ from the other colonies and how does the historical significance of these events deviate in such a way that it is overlooked by researchers concerned with these histories.

## 1.2. Literature Review

To look at a series of regulatory Acts and the people involved means to look back through a varying number of historical lenses. Fields of history that can clearly stand alone as prominent disciplines become intertwined in a complex relationship of dependence, without the one, the other will not be so clearly understood. A historical narrative on the British Empire and the actors concerned for this particular study can hardly ever be undertaken without relying on such a relationship. In the search to fully comprehend the reasoning behind the Contagious Diseases Acts, the varying implications once implemented and the lasting changes throughout an entire society, this study will have to look into many a field of history. The fields of medicine, military, political, colonial as well as the narrower fields of gender, sexuality and race all become interdependent in this study on the Contagious Diseases Acts. The history of feminism cannot be overlooked in its importance regarding this study, as these Acts are pivotal in the study of women in the Victorian era, especially in Britain and thus in the British Empire as well. The significance of these Acts, and the symbolic metaphor it became in the struggle for the women's vote, makes it a well researched topic, especially in Britain. Judith Walkowitz is one such author who takes a special interest in women's history in Great Britain. Her cultural analysis of class and gender in "City of Dreadful Delight"<sup>9</sup> draws on the theoretical perspectives of Michel Foucault, Michel de Certeau and Jeffery Weekes. One of her key arguments concerning her study of Victorian society deals with the myths that surround the women involved in prostitution. She looks at aspects such as social status and the supply and demand sector that was prostitution. She also importantly looks at the societal views on women and self representation. In her article "The Politics of Prostitution"<sup>10</sup> she looks at examples of historical campaigns against male vice and the double standard. She is particularly concerned with the fact that the importance of the women's suffrage

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<sup>9</sup> Judith Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London*, (Chicago: The University of Chicago Press, 1992)

<sup>10</sup> Judith Walkowitz, "The Politics of Prostitution," *Signs* 6, no 1 Women and Sexuality, Part 2 (1980), 123 – 135.

movement cannot be fully understood without looking at these campaigns. Judith Walkowitz's work is important to this study in the way that she looks at the formulation of identity in prostitution through the existing class based ideals in the Victorian society during the nineteenth century. She argues that prostitutes were portrayed as social deviants and argues that they can rather be seen as entities of independence among their own class, identified as active independent women who took control of their lives in a time when decent work and wages were a scarcity for women.

However it is not only the feminist angle that has placed this period of history in a spotlight, but also the surrounding topics of sex, gender and race. To view the British Empire outside of the great men in history has become increasingly popular in the last few decades. Looking beyond the major wars and political greats that they involved and focusing more on a lower level of social and cultural history has allowed for fascinating snippets of history to emerge. Ronald Hyam, Philippa Levine and Richard Phillips are historians that stand out in their contribution to the narratives concerning Imperial sexuality. Ronald Hyams' works<sup>11</sup> bring a fresh way of portraying the British Empire. One of the Hyams' key arguments that is pivotal to the study of sexuality, power and the colonial era, is that sexual dynamics crucially underpinned the expansion of the British Empire. Although his work done in "Empire and Sexuality"<sup>12</sup> has been critiqued as being biased towards men, Hyam does lay the groundwork for this argument when he focuses briefly on women in history.<sup>13</sup> He states feminist history often portrays women in "their quintessential historical assumption and tendency to represent women as mere victims." In this way he agrees with Walkowitz, in that prostitutes should be regarded as women who turned their circumstances to their advantage and not as women who were exploited by men.

Hyams study of the relationship between sex and the colonial setting is important to this study as it creates the foundation for understating sex in terms of gender, power and moral-politics. He states plainly that to understand Imperial history while neglecting to look at sexual activity is impossible. "No area in history can entirely ignore sex, because sex matters to most people and has a direct bearing on their relationships."<sup>14</sup> His research regarding the link between prostitution

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<sup>11</sup> Ronald Hyam, *Understanding the British Empire*, (2010) & Ronald Hyam, *Empire and Sexuality: The British Experience*, (1991). A good review of this book by Joanna Lewis.  
<http://www.timeshighereducation.co.uk/412621.article>.

<sup>12</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (1991).

<sup>13</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (1991), 16 – 17.

<sup>14</sup> Ronald Hyam, *Understanding the British Empire*, (2010), 364.

and the activities of the British Empire is also pivotal to this study, especially his portrayal of the Victorian mindset and the export of prudery. In this way, practice and theory diverge. On the one hand there was this flourishing trade in prostitution, with regulations to keep the servicing women clean for the use of the military and on the other was this counterbalancing attitude of the Victorian elite. The attitude, he states was a “narrow, blinkered, defective, and intolerant”<sup>15</sup> attitude towards sex which was very successfully imposed on the rest of the world.

Philippa Levine’s multiple works concerning the British Empire<sup>16</sup>, the role of prostitution and venereal disease<sup>17</sup> and her focus on India<sup>18</sup> and Hong Kong<sup>19</sup> portrays the British Empire from a unique view point. Although her book “The British Empire: Sunrise to Sunset”<sup>20</sup> gives insight into the Empire from its roots to its decolonisation, it is her chapter “gender and sexuality”<sup>21</sup> as well as her exploration of India during this period in her chapter, “Britain in India”<sup>22</sup> that is of particular interest to this study. Her book, published prior to “The British Empire” entitled “Prostitution, Race and Politics: Policing Venereal Disease in the British Empire”<sup>23</sup> however is one that this research draws on most. Her examination of the four colonial spaces of India, the Strait Settlements, Hong Kong and Queensland form the basis of the comparative analysis of this study. Although this study is primarily focused on sources concerning the Cape Colony an understanding of the same situation in various colonies, as well as Britain itself, is central to the examination of the events that occurred between 1860 and 1890. One central argument that is pivotal to this research is the link between prostitution and colonialism. A recurring theme present in Levine’s work is the basis that the Contagious Diseases Acts were put in place to not only protect the military men and the health of the Queens troops but also as a conscious means

<sup>15</sup> Ronald Hyam, *Understanding the British Empire*, (2010), 364.

<sup>16</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (Harlow: Pearson Education Limited, 2007) & Philippa Levine, “Consistent Contradictions: Prostitution and Protective Labour Legislation in Nineteenth-Century England,” *Social History* 19, No. 1 (Jan., 1994), 17-35.

<sup>17</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003) & Philippa Levine, “‘A Multitude of Unchaste Women:’ Prostitution in the British Empire,” *Journal of Women's History* 15, no 4 Winter, (2004) 159 – 163.

<sup>18</sup> Philippa Levine, “Venereal Disease, Prostitution, and the Politics of Empire: The Case of British India,” *Journal of History of Sexuality* 4, No 4, (Apr 1994) 579 – 602. & Philippa Levine, “Rereading the 1890s: Venereal Disease as ‘Constitutional Crisis’ in Britain and British India,” *The Journal of Asian Studies* 55, No. 3 (Aug., 1996), 585-612.

<sup>19</sup> Philippa Levine, “Modernity, medicine and Colonialism: The Contagious Diseases Ordinances in Hong Kong and the Strait Settlements,” *Positions* 6, No 3 Winter (1998), 675 – 705.

<sup>20</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (2007)

<sup>21</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (2007), 142 -165

<sup>22</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (2007), 61 – 81.

<sup>23</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (2003)

to dominate. Levine uses the business and ideals surrounding prostitution to reveal how closely race and colonialism was entwined.

Both Hyam and Levine explore the theory that indigenous prostitution was an acceptable trade to westerners due to the fact that non-westerners were seen as having a permissive attitude towards sexual morality. Hyam explores the leniency of this attitude in his particular exploration of male prostitution and the encounters of homosexual behaviour, not just in the colonial population but also among the colonisers.<sup>24</sup> Although also entwined in the history of prostitution and women, his fascination with men, the colonial world and sex separates his work from the rest. Comparatively what makes Levine's work stand out among the rest is that it not just her focus on the broad analyses of the British Empire, and the interaction between gender, sexuality and race, but rather her in depth research into a particular colony and its inner workings concerning the crisis of venereal disease and the concept of regulation. As indicated in "Prostitution, race and politics"<sup>25</sup> she focuses on four colonial spaces, India, Hong Kong, Singapore and Queensland, Australia. These four spaces are the same ones used in this research due to the wide range of research available on them. Levine also published a number of articles focused on India, and in "The British Empire: Sunrise to Sunset"<sup>26</sup> it is the only colonial space that an entire chapter is dedicated to. Levine uses India as an example to show how the Contagious Diseases Acts were not England's brainchild but rather a product of the regulatory practices already in place prior to the 1860s. In India, for example, the concept of a Lock Hospital<sup>27</sup> existed already in 1805.<sup>28</sup> India has not only caught the attention of Philippa Levine though, articles by Stephan Legg,<sup>29</sup> Douglas Peers<sup>30</sup> and David J. Pivar<sup>31</sup> have all contributed significantly to the understanding of the role Britain played in India. Another significant contribution to the study of women, prostitution and

<sup>24</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (1991).

<sup>25</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (2003)

<sup>26</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (2007)

<sup>27</sup> Lock Hospitals were hospitals which were specifically set up for the treatment of venereal diseases, in order to separate those suffering from the diseases from the rest of the population. As the sufferers of these diseases were often prostitutes, it also served a purpose as a type of prison in which they could detain the women for a number of days, thus keeping them off the streets and from their work.

<sup>28</sup> Philippa Levine, "Venereal Disease, Prostitution, and the Politics of Empire: The Case of British India," *Journal of History of Sexuality* 4, No. 4, (Apr 1994) 583.

<sup>29</sup> Stephan Legg, "Governing prostitution in Colonial Delhi: from cantonment regulations to international hygiene (1864–1939)" *Social History* 34, No. 4 (2009), 447 – 467.

<sup>30</sup> Douglas M. Peers, "Privates off Parade: Regimenting Sexuality in the Nineteenth-Century Indian Empire," *The International History Review* 20, No. 4 (Dec., 1998), 823-854

<sup>31</sup> David J. Pivar, "The Military, Prostitution, and Colonial Peoples: India and the Philippines, 1885-1917," *The Journal of Sex Research* 17, No. 3, History and Sexuality (Aug., 1981), 256 - 269.



the colonial state is Erica Wald.<sup>32</sup> She states that the positions held by women prior to the British becoming involved with India, were not viewed as positions of an immoral nature. Women who were working as temple dancers, courtesans or monogamous concubines, were all exclusive of each other and each had unique characteristics to their roles. However after British influence, all these were combined under the umbrella term ‘prostitute’ and were all considered occupations of ill-repute.<sup>33</sup>

Like Levine and Hyam, Richard Phillips<sup>34</sup> has also contributed greatly to this field of research. His book “Sex, Politics and Empire”<sup>35</sup> explores the relationship between prostitution and the political aspects of the Contagious Diseases Acts. As with Levine, Phillips also takes the two-fold study of this period, firstly looking at the British response and Imperial concerns regarding the regulation of position and the interplay between gender and colonial interactions. Secondly Phillips also takes the country specific approach. In his article “Imperialism and the regulation of sexuality: colonial legislation on contagious diseases and ages of consent” he looks at the concept of agency and the production of systems for the regulation of prostitution. He uses case studies, such as South Australia, to illustrate how forms of agency have allowed for the deviation from British models.<sup>36</sup> An important final comment Phillips puts forth in his conclusion is that the study is focused on what can be seen as “relatively minor colonial departures, overshadowed in their time.”<sup>37</sup> This is an important point to emphasise, especially in the case study of South Africa, as a similar conclusion can be drawn that the Contagious Diseases Acts and movements that may have occurred during that time, was overshadowed by greater movements and historically prominent moments such as the discovery of gold and diamonds, as well as the South African War. Australia thus plays an important part in the research of this study as it creates a clear contrast to the abundance of research done on India in comparison to the reduced amount of

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<sup>32</sup> Erica Wald, “Defining prostitution and redefining women’s roles: The colonial state and society in early 19<sup>th</sup> century India,” *History Compass* 7/6 (2009), 1470–1483 and Erica Wald, “From *begums* and *bibis* to abandoned females and idle women: sexual relationships, venereal disease and the redefinition of prostitution in early nineteenth-century India,” *Indian Economic Social History Review* 46, No 5 (2009), 5 – 25.

<sup>33</sup> Erica Wald, “Defining prostitution and redefining women’s roles,” (2009), 1470–1483.

<sup>34</sup> Richard Phillips, *Sex, Politics and Empire: A postcolonial geography*, (Manchester: Manchester University Press, 2006) and Richard Phillips, “Imperialism and the regulation of sexuality: colonial legislation on contagious diseases and ages of consent,” *Journal of Historical Geography* 28, No 3 (2002) 339 – 362.

<sup>35</sup> Richard Phillips, *Sex, Politics and Empire: A postcolonial geography*, (Manchester: Manchester University Press, 2006)

<sup>36</sup> Richard Phillips, “Imperialism and the regulation of sexuality: colonial legislation on contagious diseases and ages of consent,” *Journal of Historical Geography* 28, No 3 (2002) 339 – 362.

<sup>37</sup> Richard Phillips, “Imperialism and the regulation of sexuality: colonial legislation on contagious diseases and ages of consent,” *Journal of Historical Geography* 28, No 3 (2002) 356.



research done specifically on this topic. Although the rich resource base of India is not readily available for Australia, a few key articles and historians contribute in this study to the understanding of Australians role in the Contagious Diseases epidemic and the varying response from each colony. Judith Smart looks broadly at the venereal disease policies in Australia, and the role disease and the military played, specifically during the Great War.<sup>38</sup> E. Barclay contributes greatly to the understanding of the Contagious Diseases Act that was put in place in Queensland during 1868 and the influence that it had on society and the attempts to repeal the Act.<sup>39</sup>

Phillips, like Hyam, also further explores the role of sex, gender and Empire through the relationships found between men. Similarly Ross Forman<sup>40</sup> explores the presence of same-sex behaviour in the Transvaal and the development of a British based attitude towards these relationships. Their research, along with others, have gone a long way in creating an understanding that homosexuality was not the result of colonialism, rather the punishments and collective attitudes of the colonisers towards same-sex relationships created an attitude known as homophobia. Although this has very little bearing on this particular study, this concept of homosexual / same-sex relationships being found as part of 'normal' society prior to the British import of prudery, can add a particularly interesting narrative for the on-going debate about gays and the legality of same-sex relationships and marriage, specifically in Africa. Hyam, Richards and Forman, all discuss this contrasting attitude of the British, especially the changes it resulted in and the way it influenced so greatly the opinion of all men. It is in this narrative that the role of the coloniser versus the colonised can be explored. Ann Stoler,<sup>41</sup> for example, suggests that these categories were created and maintained through the various forms of sexuality and sexual control. Sexuality was often used as a means of dominance, not only between men and women, but between nations. This closely links with the notion of sexuality and race. Anne McClintock,<sup>42</sup> for

<sup>38</sup> Judith Smart, "Sex, the State and the 'Scarlet Scourge': gender, citizenship and venereal diseases regulation in Australia during the Great War," *Womens History Review* 7, No 1, (1998), 5 – 36.

<sup>39</sup> E. Barclay, "Queensland's Contagious Diseases Act, 1868 – 'The Act for the Encouragement of Vice' and the Nineteenth Century attempts to repeal. Part 1," *Queensland Heritage* 2, No 10, (1974) 27 – 34 and E. Barclay, "Queensland's Contagious Diseases Act, 1868 – 'The Act for the Encouragement of Vice' and the Nineteenth Century attempts to repeal. Part 2," *Queensland Heritage* 3, No 1 (1874), 21 – 29.

<sup>40</sup> Ross G. Forman, "Randy on the Rand: Portuguese African labour and the Discourse of 'Unnatural Vice' in the Transvaal in the Early Twentieth Century," *Journal of the History of Sexuality* 11, no 4 (2002), 570 – 609.

<sup>41</sup> Ann L. Stoler, "Making Empire Respectable: The Politics of Race and Sexual Morality in 20<sup>th</sup> Century Colonial Cultures," *American Ethnologist* 16, No 4 (Nov., 1989), 634 – 660.

<sup>42</sup> Anne McClintock, *Imperial Leather: Race, gender and sexuality in the Colonial Contest*, (New York: Routledge, 1995)

example, illustrates the complex, yet centralised role that the colonised woman's body plays in the discourses of power and race. She also examines the role of social relationships, between the categories of coloniser and colonised, and the sexual codes and norms that were largely governed by them. The female body is an important allegory in this study due to the many ideals, ambiguities and symbolic representations it upheld. A key concept to the understanding of the Imperial mind-set concerning women, was the concept that women were responsible, both biologically and culturally, for the next generation and thus a symbol of purity and abundance.<sup>43</sup> Thus if the women stood for the purity and fertility of a nation, then comparatively women's immoral actions would stand for the destruction of it. The act of prostitution then was seen as the ultimate signal of disintegration of national status.<sup>44</sup>

Hyam discusses a contrasting notion which considers the prostitute as a "guardian of virtue". The same notion can be found in Keith Thomas's study on "The Double standard."<sup>45</sup> This glamorised idea of prostitution was introduced in W.E.H Lecky's "History of European Morals" and in this publication he describes the figure of the prostitute as "most mournful, and in some respect the most awful..."<sup>46</sup> He creates a beautiful analogy of the prostitute in which he compares the two ideal notions of her, the immoral perpetrator and the protector of morals.

"That unhappy being whose name is a shame to speak; who ... submits herself as the passive instrument of lust, who is scorned and insulted as the vilest of her sex... appears in every age as the perpetual symbol of the degeneration and sinfulness of man. Herself the supreme type of vice, is ultimately the most efficient guardian of virtue. But for her, the unchallenged purity of countless happy homes would be polluted... She remains, while creeds and civilisations rise and fall, the eternal priestess of humanity, blasted for the sins of the people."<sup>47</sup>

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<sup>43</sup> Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women's Historical Writing* (Basingstoke: Palgrave MacMillan, 2010), 446.

<sup>44</sup> Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women's Historical Writing* (Basingstoke: Palgrave MacMillan, 2010), 445.

<sup>45</sup> Keith Thomas, "The Double standard," *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 197.

<sup>46</sup> Keith Thomas, "The Double standard," *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 197.

<sup>47</sup> W.E.H. Lecky quote as found in Keith Thomas, "The Double standard," *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 197.

This mentality led to a number of narratives concerning the role of women in society, as well as the role of the prostitute. The two fold mentality has spawned many a debate in historical narratives. A key aspect to regard when looking at the ideas surrounding the prostitute is to consider the varying cultural associations appointed to the figure. Britain, in many narratives, is clearly the exporter of prudery and the notion of sex as a private, mysterious deed that happened in a space that no one need know of. Studies done concerning women and prostitution in India, China and Japan however show differing views regarding the notion if an ill-reputed occupation. The influx of Chinese and Japanese prostitutes into the colonial spaces of Singapore and Hong Kong due to difficult economic times, have been the point of departure for many a historian writing about the role of gender in colonialism.<sup>48</sup>

Levine and Hyam both support the notion that women arriving at the colonial spaces of Singapore and Hong Kong, were not necessarily trafficked there, like some of the prostitutes in South Africa,<sup>49</sup> but to seek jobs and incomes. Ah Ku and Karayuki-san,<sup>50</sup> the Cantonese and Japanese terms for prostitutes, were often trained in the art of concubinage.<sup>51</sup> This also meant that women were educated to become courtesans and concubines in order to be able to survive and help feed their families back home in rural China and Japan. This, as Gail Hershtetter explains in “Dangerous Pleasures”<sup>52</sup> was considered a fulfilment of the familial obligation and not a downward spiral into immorality and thus women could return to their families and even marry without prejudice.

Hyam also explores the status of the non-European prostitute in “Understanding the Empire.”<sup>53</sup> This is an interesting comparison in the way that Indian and Asian prostitutes were viewed in contrast to the British prostitute. Although the government frowned on all forms of prostitution, it was seen as a necessary by-product of colonisation. However the British prostitute seemed to

<sup>48</sup> James F Warren, “Prostitution and the Politics of venereal disease: Singapore 1870 – 98,” *Journal of Southeast Asian Studies* 21, No 2 (Sept., 1990) 360 – 361, Bill Mihalopoulos, “Ousting the ‘prostitute’: retelling the story of *karayuki-san*,” *Postcolonial Studies* 4, no. 2, (2001), 169 – 187.

<sup>49</sup> Elizabeth B. van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 170-197.

<sup>50</sup> For the full description of these terms see James F Warren, *Ah ku and karayuki- san: prostitution in Singapore 1870 – 1940*, (Singapore: Singapore University Press Yusof Ishak House, NUS. 2003), 3 – 4.

<sup>51</sup> <sup>51</sup> James F Warren, “Prostitution and the Politics of venereal disease: Singapore 1870 – 98,” *Journal of Southeast Asian Studies* 21, No 2 (Sept., 1990) 360.

<sup>52</sup> Gail Hershtatter, *Dangerous Pleasures: prostitution and modernity in twentieth-century Shanghai*, (Berkeley : University of California Press, 1997).

<sup>53</sup> Ronald Hyam, *Understanding the British Empire*, (2010), 371.

have been greatly frowned upon. Not only were they regarded as dirty and coarse, in comparison to their native counterparts, they were also seen as breaking down British, and European supremacy. Asian prostitutes were preferred due to their ability to be playful hostesses. They were viewed as cleaner, and therefore less likely to infect the men they encountered.<sup>54</sup> Prostitution, sexual regulations and the role of disease in Hong Kong and Singapore have garnered a large resource of information. Historians such as Ka-che Yip<sup>55</sup> and A. Hamish Ion<sup>56</sup> contribute greatly to the understanding of the role both Hong Kong and Singapore played in the movement against the Contagious Diseases Acts.

Sue Morgan<sup>57</sup> introduces her argument by quoting novelist George Gissing who described the 1880s and 1890s as a time dwarfed with concern over ‘sexual anarchy.’ The figure of the prostitute was one of the all-encompassing concerns pivotal during this time. The anxiety over the separation between sex and procreation and the ever growing culture of colonial vice was receiving great amounts of attention. Two pivotal concepts are used in this study to explore the growing concern linked to the development of sexual commerce. The first is the concept of boundaries. In particular the boundaries, based on the western ideals of, public and private are discussed. Along with Levine and others already mentioned, three articles supporting this notion will be used in this study. Firstly Lawrence E Klein’s work “Gender and the Public/Private Distinction in the Eighteenth Century: Some Questions about Evidence and Analytic Procedure”<sup>58</sup> explores the dichotomies of gender present in the political and social histories of Western thought. Gerda Lerner<sup>59</sup> also explains how men and women are “indoctrinated in a male-defined value system” and importantly discusses how women from different classes experience different histories, thus making it pivotal to understand women from all classes in order to fully comprehend the history of that period. Kirsten Lucker<sup>60</sup> looks at the interaction between gender

<sup>54</sup> Ronald Hyam, *Understanding the British Empire*, (2010), 371.

<sup>55</sup> Ka-che Yip, “Segregation, Isolation, and Quarantine: Protecting Hong Kong from Diseases in the Pre-war Period”, *Journal of Comparative Asian Development* 11, No 1 (2012), 93-116.

<sup>56</sup> A. Hamish Ion, “Sexual Imperialism on the China Station during the Meiji Restoration: The Control of Smallpox and Syphilis at Yokohama, 1868–1871”, *The International History Review* 31, No 4 (2009), 711-739.

<sup>57</sup> Sue Morgan “‘Wild Oats or Acorns?’ Social Purity, Sexual Politics and the Response of the Late Victorian Church,” *Journal of Religious History* 31, No 2, (June 2007), 151 – 164.

<sup>58</sup> Lawrence E. Klein, “Gender and the Public/Private Distinction in the Eighteenth Century: Some Questions about Evidence and Analytic Procedure,” *Eighteenth-Century Studies* 29, No. 1, The Public and the Nation (Fall, 1995), 97-109.

<sup>59</sup> Gerda Lerner, “Placing Women in History: Definitions and Challenges,” *Feminist Studies* 3, No. ½ (Autumn, 1975), 5 – 14.

<sup>60</sup> Kirsten Lucker, “Sex, social hygiene, and the state: The double-edged sword of social reform,” *Theory and Society* 27 (1998), 601 – 643.

and the state and addresses the comparison between the 'family' and the 'market' in comparison to the 'public' and the 'private'. The understanding of the perceived role of women is important in not only the study of gender, but specifically the study of prostitution. As Linda Kerber<sup>61</sup> discusses in her study of "Separate Spheres, Female Worlds, Woman's Place" the concept of women belonging to the 'private' sphere draws from classical Greek thought, where the limits set for women were imposed on them by biological factors. Women, "who with their bodies guaranteed the physical survival of the species"<sup>62</sup> implicitly fell into the private sphere. Howell and Levine also contribute to this discussion. Levine explains how prostitutes blurred this boundary between public and private by being women.<sup>63</sup> She explains that even when a prostitute was female, they were no longer regarded as feminine due to their occupation and thus forfeited the rights otherwise accorded to women. The prostitute became a figure representative of how women might break away from their accepted domains and prove to be something other than docile and refined.<sup>64</sup>

The second pivotal concept, and one which is closely related to the first, is that of the double standard. Drawing heavily on the definition given by Keith Thomas in "The Double Standard,"<sup>65</sup> the double standard explores how men and women were granted separate allowances of what was right and wrong. Vertrees Malherbe also identifies the existence of this concept in his exploration of the family life and law in Cape Town during the Victorian era.<sup>66</sup> The concept of the double standard is clear in most of the works, concerning the history of gender, sexual relations and colonialism. It is also a two-fold concept. With regards the study of gender, the Contagious Diseases Acts and the regulations of prostitution the double standard can clearly be seen as existing between the actions of a man and a woman. However, with regards to colonialism and race, the double standard also existed within the interactions between colonial and colonist. As previously mentioned, sexual relations were used to identify the superior nation. In Levine's

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<sup>61</sup> Linda Kerber, "Separate Spheres, Female Worlds, Woman's Place: The Rhetoric of Women's History," *Journal of American History* 75, No. 7 (June 1988), 9 – 39.

<sup>62</sup> Linda Kerber, "Separate Spheres, Female Worlds, Woman's Place: The Rhetoric of Women's History," *Journal of American History* 75, No. 7 (June 1988), 18.

<sup>63</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 298.

<sup>64</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 183.

<sup>65</sup> Keith Thomas, "The Double standard," *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 195 – 216.

<sup>66</sup> Vertrees, C. Malherbe, "Family Law and 'The Great Moral Public Interests' in Victorian Cape Town, c. 1850 – 1902," *Kronos* 36, (Nov., 2010), 7 – 27.

“Prostitution, Race and Politics”<sup>67</sup> she shows how prostitution and sexual relations were used by colonialists as proof that the people they had colonised were less evolved. The relationship between the colonised and the coloniser has already been addressed, it is now the role of race that moves the focus of this literature review to the Cape Colony.

The role of race has played a pivotal role in the historical exploration of South Africa. Much of the literature available, concerning aspects of disease in the country, focuses on the existence of various viruses and infections among Africans. Sidney L Kark, for example, does an in-depth study of the social pathology of syphilis in Africans.<sup>68</sup> Karen Jochelson also studies the patterns of syphilis in South Africa.<sup>69</sup> Although she does focus on the history of syphilis in South Africa, and briefly explores the existence of the disease in the Cape Colony, the majority of her study focuses on South Africa after 1910. The sub-discipline of medical history in South Africa has, considering South Africans long history with medical epidemics, understandingly produced most of the literature concerning the venereal disease epidemic and the existence of the Contagious Diseases Acts. Since the 1970s and 1980s the focus on the history of health, disease and medicine has grown increasingly. The shift offers the potential to fully understand the lives and histories of ordinary people.

The study of a country’s medical history can be viewed as playing a pivotal role in the totality of a country’s past. By contributing to the understanding of not just medical factors, but also social and economic, the capacity to explore features, relationships and attitudes in society is increased.<sup>70</sup> Harriet Deacon,<sup>71</sup> Clive Glaser<sup>72</sup> and Shula Marks<sup>73</sup> are all contributing historians to

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<sup>67</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 8.

<sup>68</sup> Sidney L. Kark, “Reprints and Reflections: The Social Pathology of Syphilis in Africans,” *International Journal of Epidemiology* 32, (2003), 181 – 186.

<sup>69</sup> Karen Jochelson, *The Colour of Disease: Syphilis and Racism in South Africa, 1880 – 1950* (Basingstoke: Palgrave in association with St Antony's College: Oxford. 2001).

<sup>70</sup> Albert Grundlingh, Christopher Saunders, Sandra Swart and Howard Phillips, “Environment, Heritage, Resistance and Health: Newer Historiographical Directions,” in *The Cambridge History of South Africa, Volume Two, 1885 – 1994*, edited by Robert Ross, Anne Kelk Mager, and Bill Nasson (New York: Cambridge University Press, 2012), 600 – 624.

<sup>71</sup> Harriet Deacon, “Racism and Medical Science in South Africa's Cape Colony in the Mid- to Late Nineteenth century,” *Osiris 2nd Series* 15, *Nature and Empire: Science and the Colonial Enterprise* (2002), 193 – 206 and Harriet Deacon, “Midwives and Medical Men in the Cape Colony before 1860,” *The Journal of African History* 39, No 2 (1998), 271 – 292.

<sup>72</sup> Clive Glaser, “Managing the Sexuality of Urban Youth: Johannesburg, 1920s – 1960s,” *International Journal of Historical Studies* 38, 2 (2005), 301 – 327 and Peter Delius and Clive Glaser, “Sexual Socialisation in South Africa: A Historical Perspective,” *African Studies* 61, No 1 (2002), 27 – 54.



this field of historical exploration. Although their work is not based on anything directly relational to this study, the discussion taking place on medicine particularly concerning HIV, AIDS and its social consequences creates an understanding of where a discussion on venereal diseases, sexuality and gender can possibly fit in. There is one contribution in this field of study, that has researched the medical history of South Africa from 1652 until 1898,<sup>74</sup> and thus researched the various ‘social ills’ and regulatory practices that existed in the country between 1850 and 1890. Percy Ward Laidler and Michael Gelfands research into this medical and social study consists of a broad medical history of South Africa. Although an insightful read concerning the various medical practices and reformatory measures put in place, the social study of these events, especially with regards to the Contagious Diseases Acts and the repeal years of 1871 to 1885 has been found wanting.

Karen Jochelson, Charles van Onselen and Catherine Burns are among the few who have sought to combine the various social and medical components of South African history to create a historical analysis of varying facets. In “The Colour of Disease,”<sup>75</sup> Jochelson looks at race and class divisions and the construction of ideas concerning Africans in South Africa. Charles van Onselen’s study on the Witwatersrand<sup>76</sup> is increasingly informative as a comparative literature to the events that occurred on the mining fields of South Africa and those that occurred along the coast in the Cape Colony. The different racial interactions as well as the sexual demographics that is revealed makes an interesting study when compared to the varying population and gender proportions of the Cape. A particular fascinating study by Charles van Onselen is his portrayal of Joseph Silver’s life in “The Fox and the Flies.”<sup>77</sup> An important contribution the “Fox and the Flies” brings to this particular study is the subtle way in which Van Onselen handles class and social divisions within the various communities. What is essentially important about this

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<sup>73</sup> Shula Marks, “An Epidemic Waiting to Happen? The Spread of HIV/AIDS in South Africa in Social and Historical Perspective,” *African Studies* 61, No 1, (2002), 13-26

<sup>74</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971)

<sup>75</sup> Karen Jochelson, *The Colour of Disease: Syphilis and Racism in South Africa, 1880 – 1950* (Basingstoke: Palgrave in association with St Antony's College: Oxford. 2001).

<sup>76</sup> Charles Van Onselen, *Studies in the social and economic history of the Witwatersrand, 1886 – 1914, Part 1: New Babylon* (Johannesburg: Raven Press, 1982).

<sup>77</sup> Charles Van Onselen, *The Fox and the Flies: the world of Joseph Silver, racketeer and psychopath* (London: Jonathan Cape, 2007)

approach is its valuable contribution to the South African historiography and its emphasis on the vagueness of racial boundaries in the late 19<sup>th</sup> century and early 20<sup>th</sup> century South Africa.<sup>78</sup>

Although the historical research done on the subject of gender, sexuality and colonialism is rife with comparisons between races and nations, the Cape Colony during 1850 and 1890 sets a different scene with regards to race and the interplay of nations. In researching this topic, especially with regards to the archival sources, it becomes specifically noticeable that there is a clear lack of evidence to support any notion that the Contagious Diseases Acts implanted at the Cape Colony were racialised. One article, however, claims that this did indeed happen. Anne Digby writes in her article “The Medical History of South Africa: an overview” that “the Contagious Diseases Prevention Act of 1885 made it compulsory for ‘coloured’ and African sufferers of syphilis to be treated... in order to protect the white population.”<sup>79</sup> Although not entirely incorrect in her assessment of the Act, the clear cut separation of races comes across as a lazy simplification of the actual, more complex, events.

Catherine Burns traces the history of sexuality in her article “Sex Lessons from the Past?”<sup>80</sup> An important aspect of her argument links the study of the Contagious Diseases Acts with females in South Africa during the 1930s. She points out that in Europe the Acts brought many women into the public eye that were not there previously and that these forms of regulations have been linked to the suffrage movement that swept the world at the end of the 19<sup>th</sup> century. Burns stated that although the physical policies had been done away with, the stigma of women and sexual promiscuity were still insinuated by male politicians, educators and religious leaders.<sup>81</sup> This is an important argument in the development of this study as the lack of the female movement in the late 19<sup>th</sup> century did not seem to have the same effect on South African women as in the rest of the Empire. Although groups such as the Women’s Christian Temperance Union, the Women’s Enfranchisement League and the Guild of Loyal Women had chapters in the Cape Colony,<sup>82</sup> they

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<sup>78</sup> Jonathan Hyslop, Guy Willoughby, Sandra Swart & Christopher Saunders, review of *The Fox and the Flies: the world of Joseph Silver, racketeer and psychopath* by Charles Van Onselen, (2009) *South African Historical Journal* 61, No1 (2009), 202-212.

<sup>79</sup> Anne Digby, “The Medical History of South Africa: An overview,” *History Compass* 6/5 (2008), 1196.

<sup>80</sup> Catherine Burns, “Sex Lessons from the Past?” *Agenda* 29, Women and Environment (1996), 79 – 91

<sup>81</sup> Catherine Burns, “Sex Lessons from the Past?” *Agenda* 29, Women and Environment (1996), 83.

<sup>82</sup> Julia F. Solly, *The Growth of an Idea*. Cape Town National Library: SABP 151 (28). Julia F. Solly, *The Legal Side of the Purity Question*, 1902. (Women’s Christian Temperance Union). Cape Town National library, SABP 186 (6) Mary Brown, *Would the Women’s Vote effect the Social?* 1909. Cape Town National Library: SABP 151 (30) M.E. De Villiers, *Some points concerning the legal status of Women in the Province of the Cape of Good Hope*, 1911. (Womens Enfranchisement League, Cape of Good Hope). Cape Town National Library: SABP 186 (11) and



only truly became vocal after the South African War.<sup>83</sup> By that time, the papers and meetings held concerning the subject of women and the ‘social evil’ were lost in the sea of union building, and political party mergers, as well as the racial debate of the coloured man’s vote in the Cape. The world, it would seem, had already moved passed the Contagious Diseases Acts predicament and the newly united South Africa would need to catch up.

Although the Contagious Diseases Acts in South Africa may never have gained significant historical attention, two prominent areas of focus have gained attention since then. The first was prostitution. The figure of the prostitute has been both historically and socially present in literature. Although a large amount of literature concerning the prostitute revolves around the recent debates concerning the legalisation of the sector.<sup>84</sup> In the article “On Prostitution, STDs and the Law in South Africa: The State as Pimp”<sup>85</sup> concerning prostitution and the decriminalisation build on an interesting argument that the “world’s oldest profession”<sup>86</sup> is still clad in myth and prejudice. An interesting conclusion that they come to in their study is that prostitution is not about sex but rather about sexual and social equality. This can be aligned with the argument against the Contagious Diseases Acts. However the article concludes by stating that the state must regulate the industry in order to ensure that it operates properly and that a level of protection against abuse is provided. Their closing argument however is what sets this article apart from others and that is the suggestion that the state in post-democratic South Africa should, “in effect... become a benevolent pimp.”<sup>87</sup> The link between HIV and prostitution has also drawn much attention in recent years and there is plenty of literature available relating to the interaction between sex, government intervention and infection.<sup>88</sup> This is an important aspect to take note of

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O. Schreider, J.F. Solly, H. Davidson M. Cleghorn, A letter to the Members of the Legislative council and House of Assembly. Cape Town National Library: SABP 186 (5)(7)

<sup>83</sup> Elizabeth van Heyningen & Pat Merrett, “The Healing Touch’: The Guild of Loyal Women of South Africa 1900–1912,” *African Historical Journal* 47, no 1 (2002), 24 – 50.

<sup>84</sup> Henry Trotter, “Dockside Prostitution in South African Ports,” *History Compass* 6/3 (2008): 673–690, Janet M. Wojcicki, “The Movement to Decriminalize Sex Work in Gauteng Province, South Africa, 1994-2002,” *African Studies Review* 46, No. 3 (Dec., 2003), 83-109.

<sup>85</sup> John M. Luiz & Leon Roets, “On Prostitution, STDs and the Law in South Africa: The State as Pimp” *Journal of Contemporary African Studies* 18, No 1 (2000) , 21 – 38

<sup>86</sup> John M. Luiz & Leon Roets, “On Prostitution, STDs and the Law in South Africa: The State as Pimp” *Journal of Contemporary African Studies* 18, No 1 (2000) , 21.

<sup>87</sup> John M. Luiz & Leon Roets, “On Prostitution, STDs and the Law in South Africa: The State as Pimp” *Journal of Contemporary African Studies* 18, No 1 (2000) , 37.

<sup>88</sup> Catherine Burns, “Sex Lessons from the Past?” *Agenda* 29, Women and Environment (1996), 79 – 91, Clive Glaser, “Managing the Sexuality of Urban Youth: Johannesburg, 1920s – 1960s,” *International Journal of Historical Studies* 38, 2 (2005), 301 – 327, Peter Delius and Clive Glaser, “Sexual Socialisation in South Africa: A Historical Perspective,” *African Studies* 61, No 1 (2002), 27 – 54, Peter Delius and Clive Glaser, “Sex, disease and stigma in South Africa: historical perspectives,” *African Journal of AIDS Research* 4, No 1 (2005), 29 – 36, Benedict Carlton,

as it aligns the significance of looking at how previous infections such as gonorrhoea and syphilis were regulated, the results and societal repercussions of it, in comparison to modern problems such as HIV/AIDS and the stigmas concerned with the disease.

The second area that gained much attention was the role of women in South Africa. Three prominent fields of interests that are prevalent to this study developed under this umbrella term. The first was that of women in the South African War. The growth of interest in the role of women in the South African War is important to this study as it shows the presence of Women in South Africa at a time in history when the rest of world was placing an abundance of focus on women, not only in the aftermath of the Contagious Diseases Acts, but the ensuing development of campaigns for the women vote. The South African War is also pivotal in understanding the split between women in South Africa. In other colonies, women stood together against a common cause, however in South Africa the split in the country itself between the interior Afrikaner republics and the Cape Colony, as well as the war between them, prevented the unification of women against a common cause. It was thus, only after the war however, and during a time when South Africa was pursuing unification, when the women's movements really began to advance.<sup>89</sup> This links to the next prominent area of focus in the history of Women in South Africa and that is the development of women's organisations and the unification, or lack thereof among the white women in South Africa.

The last area that gained predominant attention was that of the late 19<sup>th</sup> century literature works about South Africa. A prominent South African author was Olive Schreiner, has garnered much attention due to, not only her publications, but her unpublished works and letters, as well as her life.<sup>90</sup> Along with Schreiner, Beatrice Hicks, who visited South Africa from 1894 to 1897 also

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"Historicizing the Unspeakable: Legacies of Bad Death and Dangerous Sexualities in South Africa," The HIV/AIDS Epidemic in Sub-Saharan Africa in a Historical Perspective, Philippe Denis and Charles Becker (eds) Online edition, October 2006, 97-112 and Shula Marks, "An Epidemic Waiting to Happen? The Spread of HIV/AIDS in South Africa in Social and Historical Perspective," *African Studies* 61, No 1, (2002), 13-26.

<sup>89</sup> Carly F. Bower " 'Lost in translation?': women's issues in the struggle for national liberation in South Africa (1910-1985), Unpublished thesis for a master's degree, Eastern Michigan University, Paper 320 (2010), Elizabeth van Heyningen & Pat Merrett, "The Healing Touch': The Guild of Loyal Women of South Africa 1900-1912," *African Historical Journal* 47, no 1 (2002), 24 – 50, Francisco O. Ramirez, Yasemin Soysal & Suzanne Shanahan, "The Changing Logic of Political Citizenship: Cross-National Acquisition of Women's Suffrage Rights, 1890 to 1990," *American Sociological Review* 62, No. 5 (Oct., 1997), 735-745, Eliza Riedi, "Women, Gender, and the Promotion of Empire: the Victoria League, 1901 – 1914," *The Historical Journal* 45, No 3 (2002), 569 – 599.

<sup>90</sup> Lauren Beukes, *Maverick: extraordinary women from South Africa's past*, (Cape Town: Oshun Books, 2004), Fiona Fourie, "A 'new women' in the Eastern Cape," *English in Africa* 22, No, 2 (Oct., 1995), 70 – 88. Tamar M. Copeland, "White Women in South Africa: An Inferior Gender Within a Superior Race, Unpublished Thesis for a

contributed greatly to the literature concerning South Africa and the way in which women were treated while writing and travelling the Empire.<sup>91</sup> The emergence of this literature is important to this study as it was one of the only public areas that women during this time had a voice. The works produced allows for a unique view in to the mind of the women, and particularly through Olive Schreiner's works, the opinion of a woman living and experiencing South Africa during this time.

### 1.3. Methodology

This study is based on an abundance of historical sources and its general focus areas are firstly, historically factual and secondly comparative. The comparative aspect of the study will involve a review of the events that occurred in four colonies during the timeframe 1850 – 1899 as well as their situations dealing with venereal diseases, and the ensuing implementation of the Contagious Diseases Acts. Gathering sources for this study was only problematic in that there are very few secondary sources which deal directly with this in the context of the Cape Colony. Although there a numerous publications and books concerning the topic in other colonies which have helped create an understanding of the general time frame and mind set of the entire Empire. The amount of primary sources found to assist this study however was in abundance and this field of study has a rich source of documentation to work from. Medical forms and criminal proceedings make for some vivid reading, as well as reviews, meetings and speeches given concerning the public's opinion about the Contagious Diseases Acts. The paucity of the secondary sources in comparison to the rich abundance of primary sources lead this thesis away from a study concerned with social commentary and historical theories.

Through the various literature reviewed for this study it can be seen that the content of this leans largely towards a greater study of themes and concepts. However, without the basic groundwork these would merely be unsubstantiated generalizations based on the studies of other colonies and applied to the Cape with an understanding that every colony has its own unique societal make up, circumstances and societies and thus its own unique responses to situations.

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honours degree, Carnegie Mellon University, 1989. Liz Stanley, "Shadows lying across her pages: epistolary aspects of reading 'the eventful I' in Olive Schreiner's letters," *Journal of European Studies* 32, No 125 – 125 (2002), 251 – 266.

<sup>91</sup> Fiona Fourie, "A 'new women' in the Eastern Cape," *English in Africa* 22, No, 2 (Oct., 1995), 70 – 88.

Thus this study seeks to view the Cape Colony in its capacity, as a colony unique to itself, as well as a colony part of the British Empire. By exploring the various consequences, reactions and repercussions of regulatory systems, focusing predominantly on the Contagious Diseases Acts in South Africa, similarities and disparities will be considered between the events in the Cape Colony and those in the Colonies selected for comparative reasons. Through this, the study seeks to reach a possible conclusion as to how the Cape Colony differed from the rest of the Colonies, and why the events that gained so much attention in the rest of the world, did not result in the same reactions in the Cape.

## Chapter 2:

### Sexual regulation as a Political Manoeuvre

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#### 2.1. The Affairs of Man

The world that made up the Empire was an extraordinary patchwork quilt of territories and the vast cultural mishmash of people that was influenced, changed and controlled by the British in an enduring attempt to shape the world to suit its needs and wants.<sup>92</sup> For more than a century the world was dominated by this Empire, managed from London. However an important aspect of the British Empire was that it not only ran on its ability to allow other colonies to depend on it for strategic defence or military aid, but Britain was as much dependent on the resources of each colony in order to gain the ability to build a defence force to support the needs of the various colonies that functioned under its flag.<sup>93</sup>

The military and naval forces of the British were the pride and joy of the Empire.<sup>94</sup> Without these men the British Empire would not have been the world force that it became well known for. It was thus no surprise that the Empire was viewed with the general impression of being a man's world.<sup>95</sup> Throughout its history, the Empire was represented as a place of masculine proving, dominated by the concerns of colonizing men, and every colony that ceded under Britain felt the presence of the defence forces. However looking beyond Britain's powerful naval superiority, by the eighteenth century much of Britain's supremacy also lay in colonial trade, shipping goods and people across the globe. This visible growth in activities, interests and profitability outside of Europe led to a greater awareness of the phenomenon of Imperialism.<sup>96</sup>

The phenomenon of Imperialism however was more than commerce and more than the endeavour to Christianise; the British Empire was built not just on the footholds of trade, exploration and acquirement but also on the shaky legs of copulation and concubinage.<sup>97</sup> It cannot be argued that

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<sup>92</sup> Bill Nasson, *Britannia's Empire: making a British World*, (Gloucestershire: Tempus Publishing, 2004)

<sup>93</sup> John Darwin, *The Empire Project: The rise and fall of the British world-system, 1830 - 1970*, (Cambridge: Cambridge University Press, 2009), 3.

<sup>94</sup> Jeremy Waldron, "Mill on Liberty and on the Contagious Diseases Acts," in *J.S. Mill's Political Thought: A Bicentennial Reassessment*, edited by Nadia Urbinati & Alex Zakaras (Cambridge University Press, 2007), 11.

<sup>95</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (Harlow: Pearson Education Limited, 2007), 142

<sup>96</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 2.

<sup>97</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (1991), 2.

the formation of Empire can be explained by sex drives, to do so would be a nonsensical argument that need not be entertained. However to ignore the fact that sex existed would do an injustice to the history of the time. Even though sex may not explain the fundamental motives behind expansion, it did have a big influence on the way in which the Imperial world was run. The writings of Imperial history cannot ignore sex, and although it can be worked around, that basic fact of the matter is that sex matters to most people and has a great influence on the way in which people interact. This is an important concept to understand when looking at the history of Empire in terms of politics, regulations and social construction through sexuality. “Historians of Empire have to come to grips with sex if only because it is there...the sex drive, even in its weakest manifestation, has repercussions on how men relate to other people and how they go about their work.”<sup>98</sup>

In terms of the British colonial, sexuality is a pivotal aspect to understand and look at, along with this however another important concept is brought to light, and it is one of gender. Gender and sexual relations tend to go hand in hand in the historical reviews of the Imperial time.<sup>99</sup> To say that the Empire was a man’s world would be an underestimation, and the presence of women and locals in this picture of Empire were at best incidental, and often felt to be more detrimental to good rule than anything else.<sup>100</sup> When the British Empire is spoken of it is often the territorial conquering and the great men who built it. The military and navy, as well as officials, who gallantly gave up their British comforts to travel to postings in foreign, often lonely, corners of the world in the name of Empire. The greatest and largest European Empire in modern history was created through colonial dominance, a world conquered by men, for men. This theme of gender, the supremacy of the male and the masculine enterprise, emerges, as a clear theme to this great time in world history.<sup>101</sup>

The concepts of sexuality and gender are broad in their understanding and encompass many facets. However an important facet to this study is firstly one of masculinity and the dominance of the male figures presence along with the emphasis placed on sexuality in men as contrasted with that of women and colonised people. This masculine driven world which was the Empire, in all its glory, ultimately however created a comfortable niche for the existence of prostitution.

<sup>98</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (1991), 2.

<sup>99</sup> Philippa Levine, “Rereading the 1890s: Venereal Disease as “Constitutional Crisis” in Britain and British India,” *The Journal of Asian Studies* 55, No. 3 (Aug., 1996), 587 – 589.

<sup>100</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (Harlow: Pearson Education Limited, 2007), 142.

<sup>101</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (1991), 89.

This, along with the festering influences of homosexual comforts<sup>102</sup> of the eastern world laid great pressure on the government to step in and take control. Although sexual opportunity was not in the least on a level of paucity in Britain, it was always tainted with the issues of morality and improper behaviour. Therefore the vast spaces of the Empire allowed for a far greater indulgence in casual sex. The enlarged field of opportunity, along with the level of privacy that came from anonymity, relaxed inhibition.<sup>103</sup> The vast outback's, desert plains, and humid steamy centres of the various colonial landscapes allowed for European standards to be rendered irrelevant. Abstinence was quickly regarded as unhealthy in such conditions and boredom, which came from the long hours of inactivity in most colonies, was an unfortunate consequence of such circumstances.<sup>104</sup> This links then to the second pivotal facet within the concepts of gender and sexuality, which was the problem of prostitution and the association between prostitution, brothels and venereal disease. This led to the implementing of various models of regulation, the most famous of which was the Contagious Diseases Act.<sup>105</sup> The Act however came forth at a pivotal moment in history, a time when women were starting to gain a voice, thus the Contagious Diseases Act can be viewed as being the vehicle of expression that allowed the women finally to find the right cause on which to focus their attention. The Act, through the attention of government and movements against the Act, can be seen as being ultimately the area that brought previously distinctive separate spheres, the public and the private, together.

The Contagious Diseases Acts, were a series of laws which were implemented to control brothels, prostitution and through this, ultimately, the spread of venereal diseases among the sailors and soldiers in the Royal forces. By comparing The Contagious Diseases Acts in Britain with the attempts at similar regulation in India, Singapore, Hong Kong and Australia it can be seen that although they were the most famous of their kind, they were indeed not the first attempts at regulation, neither were they the most successful. It was however these Acts that changed, not only the way in which people dealt with aspects of the darker side of society, but the place of women in society. More importantly though, it gave a voice to a side of society previously ignored. Through a brief look at the history behind the Contagious Diseases Act in

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<sup>102</sup> Jeremy Waldron, "Mill on Liberty and on the Contagious Diseases Acts," in *J.S. Mill's Political Thought: A Bicentennial Reassessment*, edited by Nadia Urbinati & Alex Zakaras (Cambridge University Press, 2007), 11.

<sup>103</sup> Richard Phillips, *Sex, Politics and Empire: A postcolonial geography*, (Manchester: Manchester University Press, 2006), 1 – 2.

<sup>104</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (1991), 89.

<sup>105</sup> Miles Ogborn, "Law and Discipline in Nineteenth Century English State Formation The Contagious Diseases Acts of 1864, 1866 and 1869," *Journal of Historical Sociology* 6, No 1 (March 1993), 40 – 50.



Britain, along with the various adaptation's of it in four pivotal spaces in the rest of the British Empire, a well rounded view of not only the finer details of the Acts and the successes or failures of the attempt to regulate prostitution and control the unruly spread of venereal disease can be seen.

## **2.2. Venereal Disease and the Powers that be**

### **2.2.1. Venereal Disease starts at home: the case of Britain**

The Contagious Diseases Acts in Britain was not the first of its kind. It was, however, the most famous. For the society of the 1800s, venereal disease was no stranger. The path of infection though, had a very different course in earlier years. Prior to the 15<sup>th</sup> century, extended sea travel was rarely undertaken, but as new fields of exploration opened up, new lands were discovered as well as new people. It was in these interactions though, that new diseases were also spread.

For many years various explorers as well as Militaries sent their ships on voyages, after which the sailors on board were dismissed to scatter into towns and cities, irrespective of whether they were ill, infected or healthy.<sup>106</sup> This soon became a problem though and a series of procedures and checks on board were established to insure the health of the sailors. However means to prevent infection, such as through sexual encounters with foreigners, was not taken on. During the Crimean Wars the focus was heightened concerning the health of the British Military. This was brought under attention by reform workers such as Florence Nightingale, who sought to establish proper medical facilities and care for the injured and infectious troops. What became most prominent was the extent of venereal disease infections among the men; this sparked a complex series of issues regarding health, readiness and morale.<sup>107</sup> The link with regards to the men in garrison towns, seaport cities and military barracks with the growing amount of prostitutes in these areas was quickly made. Although the participation in these acts was frowned upon, the military was not providing funds for men to readily get married. In fact it seldom happened that any man not of a high ranking was to marry whilst enlisted. Fears that lack of

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<sup>106</sup> Daniel McNabb "Notes on Venereal Diseases in the Royal Navy," *The Journal of Hygiene* 21, no. 1 (June, 1922), 1.

<sup>107</sup> Jeremy Waldron, "Mill on Liberty and on the Contagious Diseases Acts," in *J.S. Mill's Political Thought: A Bicentennial Reassessment*, edited by Nadia Urbinati & Alex Zakaras (Cambridge University Press, 2007), 11



sexual outlets would force men to participate in masturbation,<sup>108</sup> or worse turn to acts of sodomy or homosexual experiences,<sup>109</sup> meant that the prostitutes were seen as the lesser evil.

Regulation of prostitution was not an altogether new concept in the nineteenth century, as early as possibly 1751 with the Disorderly Houses Act,<sup>110</sup> it can be seen that laws had been implemented as a means to control the sector. It was not only the military aspects of society that felt the pressure of prostitution. A precursor for the 1860s Acts was found in Cambridge in the early 1820s where prostitutes were detained and inspected through orders from special powers at the university.<sup>111</sup> In the early 1840s a series of comparable systems of control were brought to public attention through a review which appeared in the *Lancet* of 1843. Three years later the notion was explored further when an editorial was published which explored the regulatory systems of Belgium and France. These systems however were found wanting in terms of British society. The matter did not end there though, and later that same year a paper was published which discussed the extent of the venereal disease crisis in the military and advocated for government intervention. The need for state intervention was again emphasised in an 1850 publication in the *Westminster Review*.<sup>112</sup> It can clearly be acknowledged that there was a call for regulation, and although fourteen years passed until finally a formal Act was implemented, various other measures were put in place to try and stop the rampant spread of disease. Various Lock wards were established in hospitals and a record of the Lock Hospital in 1861 shows how inspection for venereal disease was happening prior to the Contagious Diseases Acts.<sup>113</sup> In 1862 a committee was appointed to enquire into venereal disease in the army and navy. The report was to find out whether the system of regulation brought in by the British was working in the foreign ports. The report filed negatively against the regulation and was suppressed.

<sup>108</sup> Lesley A. Hall, "Forbidden by God, Despised by Men: Masturbation, Medical Warnings, Moral Panic, and Manhood in Great Britain, 1850-1950," *Journal of the History of Sexuality* 2, No. 3, Special Issue, Part 2: The State, Society, and the Regulation of Sexuality in Modern Europe (Jan., 1992), 365-387

<sup>109</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991) and Richard Phillips, *Sex, Politics and Empire: A postcolonial geography*, (Manchester: Manchester University Press, 2006).

<sup>110</sup> Kirsten Lucker, "Sex, social hygiene, and the state: The double-edged sword of social reform," *Theory and Society* 27 (1998), 603.

<sup>111</sup> Philip Howell, "A private Contagious Diseases Act: prostitution and public space in Victorian Cambridge," *Journal of Historical Geography* 26, no 3 (2000) 376 – 380.

<sup>112</sup> E.M. Sigsworth and T.J. Wyke, "A Study of Victorian Prostitution and Venereal Disease," in *Suffer and be Still: Women in the Victorian Age*, edited by Martha Vicinus (Indiana University Press, 1992), 91 – 92.

<sup>113</sup> Harvey J. Locke, "Changing attitudes toward venereal diseases," *American Sociological Review* 4, No. 6 (Dec., 1939), 836 – 843.

Although evidence shows that forms of regulations existed prior to the Contagious Diseases Acts of the 1860s, it was not necessarily the Acts that drew historical attention but rather the reactions to the Acts, and the various theoretical and societal impacts that these reactions had. Previous forms of regulations had not gone unnoticed though, or unopposed. What makes the 1860s Acts so unique, however, was the culmination of people, especially women who participated in the opposition. The emergence of the female voice on political and governmental, as well as social matters was pivotal to the Acts gaining so much attention. The Acts were, as Mort puts it “the single most important legislative intervention addressing sexuality throughout the nineteenth century.”<sup>114</sup> Especially when seen in the context of the Victorian debates concerning women, prostitution and “The Great Social Evil.”<sup>115</sup>

Between 1864 and 1869 the series of Acts entitled the Contagious Diseases Acts, were passed by the British government. The Acts were proposed as a means to control prostitution and thus reduce the spread of venereal diseases.<sup>116</sup> The first Act was passed under much obscurity, with a thinly attended house; the Act was more or less overlooked in importance as many considered it to be concerned with veterinary diseases and not humans.<sup>117</sup> The Bill was passed without any publicity, debate, or discussion. Although it was not hidden from the public, it was also not emphasised or made publically known. The articles written about the passing of the Bill in the newspapers were coyly titled 'The Contagious Diseases Bill passed its reading'. This was strangely coincidental to the Bills for the prevention of contagious diseases in cattle which had been under much debate in parliament at the time and which were passed in 1866 and 1869, under precisely the same name - the Contagious Diseases Bill, and thus people thought any mention of those words in the newspapers referred to foot and mouth diseases in cattle.<sup>118</sup>

The initial Act was applied to garrison towns, port cities and military stations throughout Britain and Ireland. Initially it applied to Chatham, Devonport and Portsmouth, though it was extended to Aldershot. The government appointed an inspector general of Lock hospitals and set up a committee of enquiry, appointed by the Admiralty and the Secretary of State for War, which sat

<sup>114</sup> Frank Mort, *Dangerous Sexualities: Medico-moral Politics in England since 1830*, (London: Routledge, 2000)

<sup>115</sup> Lesley A. Hall, “‘The Cinderella of Medicine’: sexually –transmitted diseases in Britian in the nineteenth and twentieth centuries,” *Genitourin Med* 69 (1993), 315.

<sup>116</sup> Margaret Hamilton, “Opposition to the Contagious Diseases Acts, 1864 – 1886,” *Albion: A quarterly Journal Concerned with British Studies* 10, No 1 (Spring, 1978), 14.

<sup>117</sup> Lesley A. Hall, “‘The Cinderella of Medicine’: sexually –transmitted diseases in Britian in the nineteenth and twentieth centuries,” *Genitourin Med* 69 (1993), 315.

<sup>118</sup> Judith Walkowitz, “The politics of prostitution,” *Signs* 6, No 1, Women and Sexuality, Part 2 (1980), 124, &

for a year 1864-5. In 1866 nine more towns were added to the initial three - Woolwich, Sheerness, Aldershot, Shorncliffe, Colchester, Curragh Camp, Windsor, and Cork and Queenstown in Ireland, but because of the five mile catchment area it actually covered 75 towns or parishes. In these places every woman was placed under surveillance, not by the local forces, but by policeman from the Metropolitan Police, who had volunteered to go to the twelve towns especially for that purpose. Medical men were appointed, and hospitals were provided with Locked wards, which had their own staff of nurses, doctors, orderlies and a chaplain. All of this was paid for by British taxpayers, many of whom had no idea what was being done with their money. In 1869 the Act was further amended to include another six towns, bringing the total of towns and parishes to 138, owing to a widened catchment area of ten miles. The amendment also doubled the penalty against women who refused to be examined from three to six months.<sup>119</sup>

Any woman living in certain garrison towns could, if she were suspected of being a common prostitute, be forced to submit to an internal genital examination carried out by a male doctor. If a prostitute was found to be infected, she would then be locked up in a special hospital wing until cured. If she refused to be examined she could be sent to prison for three months and even forced to perform hard labour. The term 'common prostitute' was not sufficiently defined and simply taken from the Vagrancy Act of 1824.<sup>120</sup>

Although the Acts were in force from 1864, it was only in the 1869 and 1870 that any sustained public outcry over them was initiated. Two organisations were formed in the latter part of 1869, The National Association for the Repeal of the Contagious Diseases Acts, and the Ladies National Association for the repeal of the Acts. The first included men from all walks of public life, lawyers, clergymen and businessmen. The latter included a number of well-known women, such as Josephine Butler and Mrs Jacob Bright.<sup>121</sup> This participation of middle-class women was a shock to many contemporaries and rebellion from women was received as a disturbing sign of the way the world was changing. The ensuing purity campaign that emerged and the agitations around the repeal for the Contagious Diseases Act gave women an opportunity they never had

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<sup>119</sup> Philippa Levine, "'A Multitude of Unchaste Women': Prostitution in the British Empire," *Journal of Women's History* 15, no 4 Winter, (2004) 159.

<sup>120</sup> Judith R. Walkowitz and Daniel J. Walkowitz, "'We are not Beasts of the Field': Prostitution and the Poor in Plymouth and Southampton under the Contagious Diseases Acts," *Feminist Studies* 1, No ¾, Special Double Issue: Women's History (Winter – Spring, 1973), 74.

<sup>121</sup> Margaret Hamilton, "Opposition to the Contagious Diseases Acts, 1864 – 1886," *Albion: A quarterly Journal Concerned with British Studies* 10, No 1 (Spring, 1978), 16.

had before, and the public was filled with the voice of the female opposition.<sup>122</sup> This challenge for political interference, and thus male dominant sectors of power was what pushed the Contagious Diseases Acts on to the fields of History.

### 2.2.2. The Pride of the Empire: British India

Even though Britain was not directly involved with ruling India until the latter part of the 19<sup>th</sup> century,<sup>123</sup> they had much influence and a powerful presence in the country due to the trading of the East Indian Company. By the 1760's they grown to be the "out-right ruler" of much of Southern India as well as Bengal and by 1833 the Company's role in India was seen as that of a political agent for the crown.<sup>124</sup> British India was never a single country under one rule, it was never one entity, but rather was made up of a collection of smaller states that were each individually governed by local dynasties.<sup>125</sup> However in 1858, India became an important symbol of Britain's overseas power, especially in the wake of losing control in America. After the Indian mutiny it was important for Britain to re-establish that power and thus it took over in the form of direct rule in India. India was one of the most militarised colonies in the British Empire and prior to taking a stance of direct rule in India there were two dominant armies in the country. The East Indian Company's army and the army of the crown.<sup>126</sup>

The presence of the army and the soldier is an important factor to remember as the size, composition and reach of the army in India had a profound impact on the economic growth there.<sup>127</sup> Not only did the increased presence of soldiers boost the need for supplies and local labour it also created new urban environments which in itself boosted the trade environment within India. These environments that the army helped boost was created through the existence of 'cantonments', which were, due to the size of the army in India, large groupings of barracks and offices in which the army lived and functioned whilst stationed at a certain post.<sup>128</sup> These were normally rather large and surrounding the cantonments was normally a bazaar, which was where

<sup>122</sup> Judith Walkowitz, "The politics of prostitution," *Signs* 6, No 1, Women and Sexuality, Part 2 (1980) 125.

<sup>123</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (Harlow: Pearson Education Limited, 2007), 61.

<sup>124</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003) 31.

<sup>125</sup> Stephan Legg, "Governing prostitution in Colonial Delhi: from cantonment regulations to international hygiene (1864–1939)" *Social History* 34, No 4 (2009), 447.

<sup>126</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003) 31.

<sup>127</sup> Douglas M. Peers, "Privates off Parade: Regimenting Sexuality in the Nineteenth-Century Indian Empire," *The International History Review* 20, No. 4 (Dec., 1998), 831.

<sup>128</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003) 32

many locals traded supplies and other necessities that the army would need. This was called the main bazaar or the *sudder bazaar*, and would travel along with the regiment as it went on its marches. An important aspect of life at the cantonments, that is pivotal to this study, is the existence of the red bazaar, or the *lal bazaar*<sup>129</sup> or *chaklas*, which was where the prostitutes were confined. It was within these *chaklas* that the problems of prostitution, venereal disease and regulation were focused.<sup>130</sup>

An important factor to discuss with regards to India is the presence of the prostitute. Much like in Asia, the existence of women as pleasurable company existed long before the Empire was established. The various occupations of these women however were very different before the establishment of British control. Similar to the concubines in China and Japan, the women who became known as prostitutes were employed not only as concubines, but temple dancers, courtesans and monogamous concubines. None of which were deemed occupations of ill-repute though, until the British took control with their ideas of morality and prostitution.<sup>131</sup>

The attempt to control the health of the troops through the management of the women with whom they interacted sexually was by all means not a new establishment for British India in the early 1860's. Before the passing of the Acts based on those found in Britain, similar, but less extensive forms of regulation existed in India, as well as in Hong Kong. These enactments regulated the examination of diseased women, as well as the hospitals where they were to be examined. This has been noted as appearing on documents as far back as 1805, under the supervision of the civil magistracy in the Madras presidency. An institution that could be viewed as one of the first venereal 'Lock' hospital in India was established as early on as this.<sup>132</sup>

To pretend that India was a place in which normal lives were led by those in Army and Naval positions would be a useless endeavour. In the early 1800s marriage for British Officials below the rank of Major was an exception, one that did not often occur.<sup>133</sup> Overseas officers thus frequently had mistresses, while the lower ranks wreaked havoc in the taverns and brothels of any

<sup>129</sup> Stephan Legg, "Governing prostitution in Colonial Delhi: from cantonment regulations to international hygiene (1864–1939)" *Social History* 34, No 4 (2009), 451.

<sup>130</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003) 32.

<sup>131</sup> Erica Wald, "Defining prostitution and redefining women's roles: The colonial state and society in early 19<sup>th</sup> century India," *History Compass* 7/6 (2009), 1470–1483.

<sup>132</sup> Philippa Levine, "Venereal Disease, Prostitution, and the Politics of Empire: The Case of British India," *Journal of History of Sexuality* 4, No 4, (Apr 1994), 583

<sup>133</sup> Jeremy Waldron, "Mill on Liberty and on the Contagious Diseases Acts," in *J.S. Mill's Political Thought: A Bicentennial Reassessment*, edited by Nadia Urbinati & Alex Zakaras (Cambridge University Press, 2007), 11.

town in which they found themselves. It was no surprise then that in 1820 when a regiment left India after nearly 25 years in service there, a large group of women saw them off at the harbour, many of them with three or four children each.<sup>134</sup> By the end of the 1850s, however, the taking of mistresses was slowly on the decline and had much to do with the fact that Venereal Disease was becoming a serious problem, especially within the confines of the army.<sup>135</sup> The biggest problem came with the perception of the army and those who joined its ranks. The British Army was seen to represent the “scum of the earth enlisted for drink... recruited from the adventurous and the derelict.”<sup>136</sup> The army was swarming with many an unmarried man, whose life in the colonial setting such as India was filled with a choice, when not on duty, between lying idly in the barracks for 18 hours a day, drinking excessively to pass the time or turn to the soft comforts of prostitution, and risk infection. This created a dilemma for the authorities. They would either have to choose between increasing the marriage quota, which in turn meant money spent on the building of marital quarters or they had to allow the men to visit dirty unregulated brothels, which would in turn cause problems with Venereal Disease infections, and if the men were drunk and rowdy, problem with the locals could arise. However to exclude prostitutes from the cantonments, would in the view of some, turn them into “replicas of Sodom and Gomorrah.”<sup>137</sup> This led to the general view that to expect abstinence was impossible, but the preservation of the soldier, a costly import, was vital.

Britain most certainly had not brought prostitution to India, what it did however do was to incorporate and regulate part of an old and honourable establishment of business. In the mid-1860s however regulation was dominated by the introduction of two major legislative measures. In 1864 the Cantonments Act<sup>138</sup> was implemented which organised the trade of sex within the military cantonment. In 1868, four years later, a new legislative took its place called the Indian Contagious Diseases Act. This made similar provisions for the supervision, inspection and registration of the prostitutes in all the major Indian cities and seaports. This was one of the main areas in which the Contagious Diseases Acts in India differed from those enacted in Britain. The

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<sup>134</sup> Douglas M. Peers, “Privates off Parade: Regimenting Sexuality in the Nineteenth-Century Indian Empire,” *The International History Review* 20, No. 4 (Dec., 1998), 831.

<sup>135</sup> Erica Wald, “From *begums* and *bibis* to abandoned females and idle women: sexual relationships, venereal disease and the redefinition of prostitution in early nineteenth-century India,” *Indian Economic Social History Review* 46, No 5 (2009), 10.

<sup>136</sup> Ronald Hyam, *Understanding the British Empire*, (Cambridge: Cambridge University Press, 2010), 384.

<sup>137</sup> Ronald Hyam, *Understanding the British Empire*, (Cambridge: Cambridge University Press, 2010), 385

<sup>138</sup> Stephan Legg, “Governing prostitution in Colonial Delhi: from cantonment regulations to international hygiene (1864–1939)” *Social History* 34, No 4 (2009), 453.



Acts put in place in Britain were solely focused on a few areas of military and naval presence; the Acts were in total enacted in approximately 18 towns. In India however the Acts affected both military and indigenous urban populations.<sup>139</sup> The aim however was strikingly similar to its British variety - to keep women free from disease. Within these confines of regulation Indian prostitutes were allowed into the *Lal Bazaar*, only after seeing a medical examiner and having been placed on the register. In the British mind India was “something of a melting-pot of sexual commerce” and the excessive need to regulate the nationality of the prostitutes was also pivotal to this registration process due to the racial fear that the prostitute and not the client would be white.<sup>140</sup> The attempt was made for the prostitutes to only be reserved for the use of the white men and obstacles were put up in an attempt to stop them from receiving Indian customers. However military police often turned a blind eye and made sure no one saw them consort with the Indians. This did not happen often though as Indian clients were kept strictly out of regimental lines, but the cantonment was a large place, and not all the prostitutes found within its confines were under regulation and housed within the regulated housing structures. Thus Indian clients could readily find supply of cheap prostitution. When the regiment travelled, so did everyone else. The accompaniment was made up of everyone from the cooks to the barbers to the prostitutes.<sup>141</sup>

Even though systems of regulation were well established before Britain took over direct control, the waning of favourability towards regulation in the late 1880s meant that the arrangements with regards to the cantonments were suspended. However the main features of the practice went unchanged. The Lock Hospitals were never closed down but instead functioned under a different name in an attempt to appease the critics. The new hospitals were labeled voluntary venereal hospitals. These were still necessary as the rise in venereal disease after the policy changes were dramatic.<sup>142</sup> Even though the main argument of many critics of the regulation policies was the fact that proof that such systems were contributing towards a decrease in infection was lacking, however if proof of decrease was lacking, the proof of an increase without regulation was certainly not.

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<sup>139</sup> Philippa Levine, “Venereal Disease, Prostitution, and the Politics of Empire: The Case of British India,” *Journal of History of Sexuality* 4, No 4, (Apr 1994), 583

<sup>140</sup> Philippa Levine, “Orientalist Sociology and the Creation of Colonial Sexualities,” *Feminist Review* 65, *Reconstructing Femininities: Colonial Intersections of Gender, Race, Religion and Class* (Summer, 2000), 8.

<sup>141</sup> Philippa Levine, “Venereal Disease, Prostitution, and the Politics of Empire: The Case of British India,” *Journal of History of Sexuality* 4, No 4, (Apr 1994), 58

<sup>142</sup> Stephan Legg, “Governing prostitution in Colonial Delhi: from cantonment regulations to international hygiene (1864–1939)” *Social History* 34, No 4 (2009), 456.

In 1895 the state secretary, Lord George Hamilton, made it clear that he wanted the system to be reinforced in the colony. Although he was backed by Viceroy Elgin, Elgin also had many doubts about the re-establishing of such procedures and it was brought to their attention that to reinforce such measures would only bring a backlash of anti-regulation campaigners. Instead it was suggested that a system of 'voluntary' venereal disease examinations were put in place. This new system would then lead to the expulsion of any diseased prostitute from the cantonment as well as dock the pay off any man found infected who would need to undergo treatment, meaning that while in hospital men would not receive their wages. This however was never implemented as it was felt that it would encourage troops to hide infections and this would cause worse repercussions. The system that was instead introduced in 1897 was one that followed two simple rules.<sup>143</sup> Firstly there was no special registration for prostitutes, only for those entering the cantonment as was procedure for any person entering the area. Secondly, venereal disease was treated under the same procedures as any other infectious disease.<sup>144</sup>

### 2.2.3. The Murky waters: Hong Kong

Britain took control of Hong Kong in 1841 primarily for naval and commercial purposes<sup>145</sup> and by 1843 Hong Kong was declared part of the crown colonies. In the first few decades under British rule, Hong Kong could be considered little more than a frontier town, one in which the British control over the majority Chinese population was one of mere superficial order.<sup>146</sup> Unlike Singapore, a close neighbouring colony, Hong Kong had neither mineral nor agricultural potential. What made Hong Kong initially attractive as a colony was its location, situated at the southern tip of Mainland China meant that the colony enjoyed a premier spot as the gateway into China. This, along with the colony's deep water harbour meant that Hong Kong soon became one of the Empires most successful ports. However the continuous arrival and departure of various vessels from all over the Empire provided the perfect conduit for viruses to enter the colony.<sup>147</sup> The fact that the colony became the docking station for sailors, as well as merchant

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<sup>143</sup> David J. Pivar, "The Military, Prostitution, and Colonial Peoples: India and the Philippines, 1885-1917," *The Journal of Sex Research* 17, No. 3, History and Sexuality (Aug., 1981), 260.

<sup>144</sup> Ronald Hyam, *Understanding the British Empire*, (2010), 126.

<sup>145</sup> Philippa Levine, "Modernity, medicine and Colonialism: The Contagious Diseases Ordinances in Hong Kong and the Strait Settlements," *Positions* 6, No 3 Winter (1998), 679

<sup>146</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 27-28.

<sup>147</sup> A. Hamish Ion, "Sexual Imperialism on the China Station during the Meiji Restoration: The Control of Smallpox and Syphilis at Yokohama, 1868-1871", *The International History Review* 31, No 4 (2009), 719.



marines meant that the male population in the colony swelled considerably.<sup>148</sup> Along with the influx of migrant workers from both mainland China and Japan, meant that the brothel industry flourished.

The increase in single males in the colony meant a boom in the existence of working-class houses of prostitutes. These working-class houses were clear indications of the influence western colonialists and their policies were having on the mindset and lifestyle of the eastern world. In Japan, the pleasure quarters were vastly different to the brothel houses set up in Hong Kong. Pleasure quarters were spaces which provided not only for the indulgent wants of men, but also served as sociable places where men could go with friends, have drinks and eat, and if they felt like it, gratify their lusts. However the ensuing problems of infectious diseases, and the resultant regulatory practices introduced by the western world, changed the dynamic of these places infinitely. Brothels became houses run by Victorian ideals of domestic order. Madams were ordered to conduct the activities of their house in such a way that the taking of carnal pleasure was done so in private, an activity strictly performed between two people.<sup>149</sup> However this divergence from the pleasure centers of the eastern world did not deter the problem of venereal disease.

One of the difficulties with Hong Kong as a port was the absence of tariffs and encumbering trade restrictions,<sup>150</sup> which meant that the passing of people between the two could not be controlled or regulated which complicated the regulations and controls in other aspects of the colony. One of these controls was the series of checks that was put in place by the colony's governor, Sir John Bowring, in 1857, called the Hong Kong Ordinance No. 12.<sup>151</sup> He implemented it at the request of the naval establishments as a way to control the spread of venereal disease among the British forces. This was done through a system in which every brothel was issued a license and provided with the means to have all the inmates of the brothels regularly examined and if found infected, treated. This measure, like many others in the Empire, was greeted with enthusiasm and relief that the venereal disease problem was being handled. The

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<sup>148</sup> Ka-che Yip, "Segregation, Isolation, and Quarantine: Protecting Hong Kong from Diseases in the Pre-war Period", *Journal of Comparative Asian Development* 11, No 1 (2012), 97.

<sup>149</sup> Bill Mihalopoulos, "Ousting the 'prostitute': retelling the story of *karayuki-san*," *Postcolonial Studies* 4, no. 2, (2001), 171.

<sup>150</sup> Ka -che Yip, "Segregation, Isolation, and Quarantine: Protecting Hong Kong from Diseases in the Pre-war Period", *Journal of Comparative Asian Development* 11, No 1 (2012), 97.

<sup>151</sup> Philip Howell, "Prostitution and racialised sexuality: the regulation of prostitution in Britain and the British Empire before the Contagious Diseases Acts," *Environment and Planning D: Society and Space* 18, (2000), 327.

ordinance had often been confused with the Contagious Diseases Acts implemented in Britain in 1864 even though it preceded the Acts by twelve years.<sup>152</sup>

Ten years after the implementation of a regulation scheme a more stringent ordinance took its place. This, again, had very little to do with the Acts that had been put in place in Britain. Although very similar to the Acts, the main difference in Hong Kong was that the Ordinance was focused primarily on brothels and had nothing to do with streetwalking and clandestine prostitution. The ordinance that replaced the 1857 one was merely a refined version of its predecessor, with one major change.<sup>153</sup> Although the new ordinance was said to be stricter, it was only firmer on those prostitutes and brothels that served foreign clients. Brothels, similar to the set up in Singapore, were split up into different factions: those that serviced Europeans and those whose clientele came from across the border in China. This separation was not seen as a racial divide but was rather justified by the fact that the Chinese women were repelled by the thought that a European doctor would be inspecting them, that inspections had become a problem and a tedious endeavour. It was therefore decided that to extend regulation over an entire community of Chinese prostitutes would not only be difficult but unenforceable. As a result, in order to prevent the further spread of disease among the European clientele of the brothels they would be directed only to use the brothels that adhered to the regulation policies and had their girls treated and examined on a regular basis.<sup>154</sup> These brothels were thus made up primarily of American prostitutes, with a few Europeans and a handful of Chinese women who would allow inspections to be done. These would have all been, presumably, in the brothels allocated in the eastern part of Hong Kong, as the western part were made up mostly of Chinese migrant workers and thus Chinese servicing brothels.<sup>155</sup>

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<sup>152</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 27-28

<sup>153</sup> Philippa Levine, "Modernity, medicine and Colonialism: The Contagious Diseases Ordinances in Hong Kong and the Strait Settlements," *Positions* 6, No 3 Winter (1998), 677.

<sup>154</sup> Philip Howell, "Prostitution and racialised sexuality: the regulation of prostitution in Britain and the British Empire before the Contagious Diseases Acts," *Environment and Planning D: Society and Space* 18, (2000), 328.

<sup>155</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 40.

#### 2.2.4. The Unhealthiest Spot: Singapore

Singapore was acquired by Sir Thomas Stamford Raffles for the British East India Company in 1819. In 1820 Singapore, along with Malacca and Penang, made up the British “strait settlements.”<sup>156</sup> A trade port, much like in Hong Kong, was established and the colony soon grew in significance. Although the colony was only incorporated as part of the crown colonies in 1867, the estimated value of international trade in the port was already of over \$11, 4 million in 1824. The success found however would have been impossible without the presence of the newly established proletariat. The small established population, along with the development of infrastructure and economy meant a need for migrant labourers. This created a boom in single male labourers, many of whom were eager to join work forces and escape the poverty and economics of Mainland China, as well as Japan. By the 1860s over two-thirds of the population was Chinese.<sup>157</sup>

As in many countries, a boost in industrial development and economic gain were among the factors which contributed to the development of the prostitution sector in Singapore.<sup>158</sup> Three aspects of the Asian prostitute are pivotal to the understanding of the prostitution sector in Singapore. Firstly, due to the economic situation in their homelands many of these girls and women were trying to overcome poverty, their weak family economics and rising economic expectations, meant they had to search for jobs, thus entering in to international traffic. The women and girls entering into Singapore were often acknowledged by the term *Karayuki san* and *Ah ku*.<sup>159</sup> These terms, later were also terms linked to prostitutes. Often these ladies did not go out of own free-will but were rather forced by families who saw no other option but to sell their daughters to the highest paying benefactor. These benefactors could then do what they wanted with their new possessions and often this meant that the girls were shipped off to the Strait Settlements to form part of the prostitution ring there.

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<sup>156</sup> Philippa Levine, “Modernity, medicine and Colonialism: The Contagious Diseases Ordinances in Hong Kong and the Strait Settlements,” *Positions* 6, No 3 Winter (1998), 675 – 705

<sup>157</sup> Bill Mihalopoulos, “Ousting the ‘prostitute’: retelling the story of *karayuki-san*,” *Postcolonial Studies* 4, no. 2, (2001), 171.

<sup>158</sup> Charles Van Onselen, *Studies in the social and economic history of the Witwatersrand, 1886 – 1914, Part 1: New Babylon* (Johannesburg: Raven Press, 1982), 103.

<sup>159</sup> For a detailed discussion on the meaning and origins of these terms consult James F Warren, *Ah ku and karayuki-san: prostitution in Singapore 1870 – 1940*, (Singapore: Singapore University Press Yusof Ishak House, NUS. 2003).

Secondly, the “values of the filial piety and the patriarchal family system”<sup>160</sup> were so deeply ingrained in the society that it was accepted and mostly taken for granted that young women and girls would enter into a profession where the entertainment of men, sexually, was the sole purpose.<sup>161</sup> These professions were accepted as being far from home towns and more often than not abroad. Young women, manipulated by family and tradition, would submit and endure, and the rightness of this was seldom questioned. Pamphlets that were often distributed to procure young women in, showed what life would be like in the cities overseas, and how the women would return home as ‘gentlewomen,’ dressed up in every possible finery. These young women, however, were often not naive to what was expected of them once overseas.<sup>162</sup> Many women were also desolate, coming from homes where there was not enough food to feed all the hungry mouths and these girls were sent to colonial port towns to search for jobs as prostitutes.<sup>163</sup>

Lastly and mostly importantly was the trafficking of these women. Often brought into the port colonies by being smuggled on board ships, women were not only forced into prostitution but often abused by brothel keepers.<sup>164</sup> The high demand for prostitutes and booming business of the prostitution sector created a situation that the Singapore government could not control, however the government did not feel it was a feasible option to declare brothels illegal.<sup>165</sup> The high demand for women who were sexually willing was alone enough to justify the existence of brothels and prostitutes in the eyes of the British government. This, however, also meant that the Singapore government had ensuing difficulty in suppressing and controlling the traffic of women and children in Singapore, and the connecting abuse that came with the territory. It is due to these factors that the laws implemented to regulate prostitutes and brothels were so unlike those implemented elsewhere in the Empire.<sup>166</sup>

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<sup>160</sup> J James F Warren, “Prostitution and the Politics of venereal disease: Singapore 1870 – 98,” *Journal of Southeast Asian Studies* 21, No 2 (Sept., 1990), 360.

<sup>161</sup> Donna J Guy, “Stigma, pleasures and dutiful daughters,” *Journal of Women’s History* 10, No 3 (Autumn 1998), 185 – 186.

<sup>162</sup> Bill Mihalopoulos, “Ousting the ‘prostitute’: retelling the story of *karayuki-san*,” *Postcolonial Studies* 4, no. 2, (2001), 173 – 174.

<sup>163</sup> James F Warren, “Prostitution and the Politics of venereal disease: Singapore 1870 – 98,” *Journal of Southeast Asian Studies* 21, No 2 (Sept., 1990), 361.

<sup>164</sup> Bill Mihalopoulos, “Ousting the ‘prostitute’: retelling the story of *karayuki-san*,” *Postcolonial Studies* 4, no. 2, (2001), 173 – 174.

<sup>165</sup> James F Warren, *Ah ku and karayuki-san: prostitution in Singapore 1870 – 1940*, (Singapore: Singapore University Press Yusof Ishak House, NUS. 2003), 100.

<sup>166</sup> Philippa Levine, “Modernity, medicine and Colonialism: The Contagious Diseases Ordinances in Hong Kong and the Strait Settlements,” *Positions* 6, No 3 Winter (1998), 682 – 683.

Legislation followed shortly on the heels of its British counterparts, although not as quickly as other colonies might have been. The Contagious Diseases Ordinance was passed in Singapore only in 1870 and mainly due to the ensuing pressures from the Military. A War Officer at the time threatened to no longer station his ships at Singapore unless something was done to regulate the prostitution.<sup>167</sup> What is particularly interesting regarding the regulatory practices in Singapore is that the regulations differed from colonies such as Hong Kong in two ways. Firstly, the system, although put in place to appease the Military, was mainly focused on the protection and safety of the women entering into the prostitution sector. Although the system, like the others, enforced a series of compulsory examinations onto prostitutes, the laws were focused more on the registration and inspections for protection purposes than regulation and control reasons. There were however certain systems put in place in an attempt to protect prostitutes from both ill-treatment and enforced detention.<sup>168</sup>

Secondly, the Ordinance enacted in Singapore was at first only applied to Chinese-only brothels, and only in the latter years was it applied to others. This was mainly linked to the fact that the laws were put in place mainly as a protective measure for the women and not as a way to regulate disease like in the rest of the Empire.<sup>169</sup> Although prostitution had existed since before colonial interference in the country, the economic development in the 1880s and 1890s gave the industry a boost and by the late 1890s both ends of the city, east and west had well established red light districts. It was in these latter years that Singapore was split into two sections, one was predominantly regarded as the European section of Singapore and the other red light district was seen as mostly serving the local and migrant populations of the colony. In 1899 the amount of prostitutes that were found to be on the system due to registration and regulation numbered at 1233.<sup>170</sup> Of these only 37 of them were found to be European, whereas the largest group, of 861, were made up of Chinese women. These however were only the known prostitutes; there was also an increasing problem with clandestine prostitutes, as was the norm in all the colonies. Officials were especially concerned about women who disguised themselves under other

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<sup>167</sup> A. Hamish Ion, "Sexual Imperialism on the China Station during the Meiji Restoration: The Control of Smallpox and Syphilis at Yokohama, 1868–1871", *The International History Review* 31, No 4 (2009), 719.

<sup>168</sup> James F Warren, *Ah ku and karayuki-san: prostitution in Singapore 1870 – 1940*, (Singapore: Singapore University Press Yusof Ishak House, NUS. 2003), 100

<sup>169</sup> Philippa Levine, "Modernity, medicine and Colonialism: The Contagious Diseases Ordinances in Hong Kong and the Strait Settlements," *Positions* 6, No 3 Winter (1998), 685.

<sup>170</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 145.

occupations in order to sell sex. Especially focused on were women in occupational positions such as hairdressers and seamstresses, whom invariably fell under suspicion.<sup>171</sup>

As in the rest of the Empire, the legislation was met with a fair amount of resistance. However it was not only the western women opposing the Acts, but rather the Asian prostitutes themselves. This was especially true of the Chinese prostitutes who refused to submit themselves for inspection. This led to the stricter separation of the two main red light districts, as many of the brothels in the red light district of the locals and migrant workers, although registered and checked on a regular basis did not have to submit their women to the frequent inspections that the brothels and prostitutes in the European servicing red light district had to. Even in the red light district which served the military and European population however came with its unique set of problems. The women there had to submit for periodical inspections, this led to the occurrence of substitution. Substitution was when a brothel servant would submit herself for inspection in the place of a diseased prostitute so that the prostitute could forgo treatment in the Lock hospital and carry on working and earning money. This also meant that the brothel owners lost less money as the more prostitutes were diseased and under the treatment, the fewer prostitutes there were to make money. Substitution was fairly easy to get away with as identifying individuals was not strongly documented in any records and it was only on rare occasions when doctors would notice certain characteristics or markings on a prostitute or on a servant that they would be able to notice that a substitute had been sent in place of the real person.<sup>172</sup>

In 1881 the protectorate took charge of the ordinances and put in different procedures in order to forgo these problems of substitution. Each woman was to be photographed and this would be seen as her ticket. On this ticket would be the number of the brothel for which she worked and the name of the brothel keeper. In Chinese there would be a notice stipulating the hospital and the warning of not attending regular inspections as well as the date of the next inspection. Six years later, in 1887, the registration fee and compulsory medical examinations were abolished; however provisions for treatment and protection of prostitutes in licensed brothels were still carried out.<sup>173</sup>

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<sup>171</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 87-88.

<sup>172</sup> James F Warren, "Prostitution and the Politics of venereal disease: Singapore 1870 – 98," *Journal of Southeast Asian Studies* 21, No 2 (Sept., 1990), 364.

<sup>173</sup> James F Warren, "Prostitution and the Politics of venereal disease: Singapore 1870 – 98," *Journal of Southeast Asian Studies* 21, No 2 (Sept., 1990), 373.

This repeal of the compulsory clauses of the ordinances however had rendered the Act basically useless by 1888. Few women sought treatment and those who were admitted to hospital left quickly as they were given medicine that they could take away from the hospital. The result of the policy changes, the repeal of the Contagious Diseases Ordinances and the 1894 abolition of the brothel inspections led to the steady growth in both the number of cases and the virulence of sexually transmitted diseases. Singapore quickly became known as the one of the unhealthiest spots in the Empire.<sup>174</sup>

### 2.2.5. The Black Sheep: Australia

Australia was, even from its earliest reviews, viewed as a “cold, broken and unnatural form of society.”<sup>175</sup> The immortality of the convict settlement was renowned and the industry of prostitution was as old as the colony itself. However the politics behind the regulation of these industries in colonies such as Australia was different from other colonies in the sole fact that there was no need to govern inter-racial sexual relations to the extent that it was deemed necessary in the other colonies. European men in Australia rarely entered into a relationship with an Aboriginal women and only a handful of cases were reported where men would entertain aboriginal prostitutes, this was very different to the case in colonies such as India and to an extent Singapore and Hong Kong. For the most part the different race groups were sexually self-contained. This did not, however, mean that a system of regulation was not present. In 1868 a Contagious Disease Bill was introduced in Queensland. This first piece of sanitary legislation received Royal Assent on the 5<sup>th</sup> of February and resembled closely that of its British counterparts.<sup>176</sup>

South Australia departed significantly from imperial precedent and reshaped the agenda for sexuality and gender politics not only in the colony but also in its influence over other colonies. Prostitution was by no means a new aspect in the colony and female prostitution had been officially acknowledged, and therefore formed part of political agency from early in the colonys European history. One year after the Contagious Diseases Bill was passed in Queensland a Bill

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<sup>174</sup> Philippa Levine, “Modernity, medicine and Colonialism: The Contagious Diseases Ordinances in Hong Kong and the Strait Settlements,” *Positions* 6, No 3 Winter (1998), 688.

<sup>175</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press 1991), 100.

<sup>176</sup> E. Barclay, “Queensland’s Contagious Diseases Act, 1868 – ‘The Act for the Encouragement of Vice’ and the Nineteenth Century attempts to repeal. Part 1,” *Queensland Heritage* 2, No 10, (1974) & E. Barclay, “Queensland’s Contagious Diseases Act, 1868 – ‘The Act for the Encouragement of Vice’ and the Nineteenth Century attempts to repeal. Part 2,” *Queensland Heritage* 3, No 1 (1874), 27.



was introduced to the South Australian government to provide registration and regulation, through medical treatments and examinations, of prostitutes. The Bill was introduced as a response to the parliamentary report done on Contagious Diseases in June 1868. The Bill was introduced and passed by the House of Assembly but when sent to the Legislative Council it lapsed. Six years later a similar Bill was introduced but later withdrawn. The Member of the Legislative Assembly explained that he felt that the matter needed to be dealt with by doctors and not police and also stated that a duly modified Bill would be introduced at a later date, which he never did.<sup>177</sup>

To a greater extent it can be viewed that out of all the colonies in this comparison, Australia had the least amount of success with the Bills. The failures of the Bill in the colony can be justified by two arguments. Firstly, and possibly the largest contributing factor to the lack of success of the Bills were the shortage of a military presence within the colony.<sup>178</sup> Although the colony was a large contributor to the economy of the Empire, especially after the discovery of gold, the presence of a military remained virtually unremarkable. This meant that the Contagious Diseases Bill, whose counterparts in the rest of the Colonies had firstly and most predominantly been enforced in garrison towns and naval ports, had no specific military zone on to which it could be applied. Linked with the lack of military also came a large contributing factor to the presence of the Bill, the lack of military prostitution.<sup>179</sup>

The lack of military is also linked closely to the second contributing factor of the failure of the Bills. Along with the lack of a strong military presence came the nonexistence of a military lobby. This meant that the composition of legislature and political agenda was changed dramatically in comparison to those colonies whose local agencies were more military focused. In South Australia one important form of local agency that was institutionalised was that of the system of responsible government that formally enfranchised white adult males. The agenda of the regulation of sexuality was thus influenced greatly by the developments within the Imperial Australian parliaments, whose main agenda points were dominated by the concerns of farmers and businessmen, rather than military officials. The ways in which the individual colonial

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<sup>177</sup> Richard Phillips, "Imperialism and the regulation of sexuality: colonial legislation on contagious diseases and ages of consent," *Journal of Historical Geography* 28, No 3 (2002), 342.

<sup>178</sup> Judith Smart, "Sex, the State and the 'Scarlet Scourge': gender, citizenship and venereal diseases regulation in Australia during the Great War," *Womens History Review* 7, No 1, (1998), 7.

<sup>179</sup> Richard Phillips, "Imperialism and the regulation of sexuality: colonial legislation on contagious diseases and ages of consent," *Journal of Historical Geography* 28, No 3 (2002), 347.



parliaments raised and addressed legislation was influenced by the conditions and actions of these local agents, agents whose main concerns were not venereal disease and prostitution.<sup>180</sup>

## Conclusion

The British Empire, and thus colonisation, created a perfect niche for prostitution. The establishments of army barracks and the forms in which living arrangements were set up in many of the colonies created the potential for homosexual behavioural patterns to emerge and this led the Imperial officials to encourage the use and existence of prostitutes/local women. Although the encouragement was there for prostitution of locals, the presence of European prostitutes was unavoidable, although heavily frowned upon. This can be closely linked with the argument that even in the most intimate settings, such as sexual encounters, the hierarchical pyramid of coloniser over the colonised is re-established and local women can be “dominated” sexually as this shows a control over the locals. However if the European women would prostitute themselves this shows that the colonised women see themselves no better than the local women and therefore, through this self-depreciation, they undermine the dominance of the Imperialists.

The masculinity of the coloniser was further established through the way in which the Imperial Powers reacted to the discovery of the venereal disease epidemic amongst the troops in the Empire. The women were immediately blamed, regulated and controlled through a series of Acts. Thus the clarification between the coloniser and colonised was reinforced through the control and regulation of the local women’s sexual endeavours. The coloniser was not only taunting the colonised by using their women as tools of satisfaction but they further emphasised their dominance through establishing controlled means in which they had power over the women. Even though some arguments may state that the Empire’s men were as exploited for their money by prostitutes as the prostitutes were exploited by the men. This however is further dismissed by the fact that the colonisers did not only use the women, they controlled the way they used them.

This chapter sought to introduce the British Empire and looked at how the concept of colonisation and the lifestyle of the Imperialist created a niche for prostitution and how the attitudes towards sexuality were adapted to suit the changing landscapes of the expanding Empire. The impacts that certain decisions that were made in terms of the control, regulation and running of the Empire, had on the growth and change within the British people who were

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<sup>180</sup> Richard Phillips, “Imperialism and the regulation of sexuality: colonial legislation on contagious diseases and ages of consent,” *Journal of Historical Geography* 28, No 3 (2002), 346.

relocated all over the world was also discussed. These include aspects such as the single man who was free to roam the world and not tied down to familial obligations, the tediousness of the colonial setting, the introduction to new concepts of sexuality and the shifting of norms in terms of what was morally acceptable and what was not.

It also looked into the Contagious Disease Acts, in their various forms, in the four specific colonial spaces that dealt with the venereal diseases. The larger and more noteworthy colonies that sexual immorality, and thus regulation, was prominent in were India, parts of Asia such as Hong Kong and Singapore and parts of Australia. This creates a well-rounded comparative literature review for the focus to shift and be contrasted with the events that took place in the Cape Colony. It is, however, also important to stress that even though the majority of generalisations that are made tend to call all colonies under one sexually immoral umbrella, this, though, is not always the case. Even though sexual deviancy from the 'British' norms was seemingly present throughout much of the Empire, it is important to note that not all colonies were treated in the same way when it came to regulation and the treatment of sexual promiscuity. However the areas being focused on here are not the only colonies that were affected by the Contagious Diseases Acts nor does it mean that the entire rest of the Empire was also affected by the Contagious Diseases Acts. There are large areas of the Empire that had no dealing with the Acts. Canada and most of British Africa, for example, were never introduced to the Acts. This also means that womens rights and anti-regulation campaigns such as the Purity Campaign had very little interferences within those colonies.

The existence of prostitution and the amount of activity surrounding the industry led to a steep growth in venereal disease cases. Although first prevalent in France after the Crimean War, the awareness spread to England, where it was treated with much the same regulatory standards as the rest of Europe – with the Contagious Diseases Act. Although the Act was met with much disapproval it continued in various forms until the late 1890s. Venereal diseases soon became an Imperial problem and many officials from various colonies were furiously corresponding in an attempt to receive help from Britain in controlling the disease, as it was seen to be depleting the strength of not only the garrisons in each colony but also impacting the health of future generations as well. As the Contagious Diseases Act was viewed by many in governmental positions as a successful means of regulation and control over the disease it was implemented in various colonies. Each colony reacted differently to these rules, and although some of the laws

were adjusted to the different settings the undertone of the regulation was much the same everywhere it was implanted in the Empire.

Although pivotally influenced by the theories of the male dominance and thus gender relations and Imperial powers, the focus of this study lies more in the factual events surrounding the Contagious Diseases Acts and the resounding repercussions of their implementations, both in Britain and the rest of the Empire. As this is a South African study, the bulk of the research will now focus on the Acts in the Cape Colony before they were implemented and whilst they were implemented. However the facts would merely be a retelling of statistical data if it were not for the research already done, both on a factual as well as a theoretical level, of the Acts and their implementations in Britain as well as in a number of other colonies, thus allowing for a comparative study to enrich the archival and statistical data supporting the research done on the Cape Colony.

**Chapter 3:****Gender, Power and Moral Politics: A Theoretical Study.**

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**3.1. Introduction**

The case of the British Empire, and the various colonies involved in the fight against venereal disease creates a vivid and rich historical base off of which to compare and contrast similar events in the Cape Colony. The events and reactions to the regulatory proceedings that were implemented in the various colonies give a comprehensive overview of not only the way in which the colonies were run, but also the existence of standards, societal norms and presumed notions.

The research and discussion concerning these colonies will thus be used to form the basis for the theoretical components of this study. These components are pivotal to the understanding of the influences and significance that regulation had on the shaping and changing of society. The three fundamental theoretical themes of this research, gender, power and moral politics, need to be studied from various angles in order to fully comprehend their importance to this topic. This chapter will broaden these themes to include aspects such as the double standard under gender, and the concept of sexuality under power. It will also briefly discuss the purity campaign as an Imperial movement and its influence on moral politics. These all culminate in the understanding of the circumstances which impact the thoughts and mind sets surrounding purity and sexuality and the concepts of marriage and home.

The first theoretical theme that will be discussed is that of the double standard. In its most bare and basic form the double standard is the concept of making allowances for one group, section or class of people in society and not offering those allowances to another. This is a very broad and basic definition of this concept and can be applied to numerous areas of life.<sup>181</sup> In the context of this research, as well as in terms of the Victorian mindset, the assumption was that men's sexual drive was natural and, often, encouraged, while the women's was not. Women were thought to not have sexual desires, and if any such drive did exist, it was confined only to the prostitute.<sup>182</sup> The prostitute came to exemplify the injustices of the sexes and can be viewed as an icon of the

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<sup>181</sup> Robert Ross, *Status and Respectability in the Cape Colony 1750 – 1870, A Tragedy of Manners*, (Cambridge: Cambridge University Press, 1999), 135.

<sup>182</sup> Philip Howell, "A private Contagious Diseases Act: prostitution and public space in Victorian Cambridge," *Journal of Historical Geography* 26, no 3 (2000) 376.

nineteenth century due to the way that the fight against, not only regulation, but against the stigma of being a woman, was developed. Although the Contagious Diseases Act was often overshadowed by the military and the way in which men were seen as victims of the infectious prostitute. Prostitutes were not only seen as the sole distributors of venereal disease, particularly among the military forces, but were often accused of being the generators of the disease. The existence of a double standard therefore was greatly emphasised through the treatment of prostitutes. However it was not the only social structure that was emphasised through the existence of the prostitute. This social structure was what Lawrence E Klein refers to as “the domestic thesis.”<sup>183</sup> This social structure was the dividing of the sexes into spheres, most popularly known as the public and the private spheres. Where women were limited to the confines of domesticity, and men dominated areas such as the ‘market’ and governance,<sup>184</sup> among other things. The clarity of separation was however blurred when attention was lifted to the figure of the prostitute in the debate against the regulatory policies of the 1860s and 1880s.

The second theme that will be dealt with is that of power. Power as a theoretical ideal was a crucial underpinning for the existence and growth of the Empire. Without the need to be in power, and also overpower, to attain land and trade goods, the Empire would not have expanded to the extent that it did. The connection between power and the concept of regulation, and most importantly the eminent Contagious Diseases Acts, was the notion that power was used not only to gain land and goods, but also to show superiority in terms of race, class and mind-set. A pivotal means of asserting this type of power was through sexual relations. Thus this study will focus on discerning how notions of power were established by looking at the interplay between the coloniser and the colonised, briefly outlining the concept of the ‘other’ and the impact that it had on the relationships within a colony. The importance of sex, sexuality and sexual relations will also be established in order to assess the impact that actions and mind-sets had on the establishment of power in a colony. Power will also be addressed by briefly exploring the existence of attitudes and mentalities that can be seen as being firmly established in the history of the British Empire and its contradictory exportation of prudery and vice.<sup>185</sup>

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<sup>183</sup> Lawrence E. Klein, “Gender and the Public/Private Distinction in the Eighteenth Century: Some Questions about Evidence and Analytic Procedure,” *Eighteenth-Century Studies* 29, No. 1, The Public and the Nation (Fall, 1995), 97.

<sup>184</sup> Kirsten Lucker, “Sex, social hygiene, and the state: The double-edged sword of social reform,” *Theory and Society* 27 (1998), 602.

<sup>185</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1990)

The third and final area that will be explored is the theoretical notion of moral politics. This term is derived from Frank Morts “Medical – Moral Politics”<sup>186</sup> in which he discusses the interaction between health and morality. He looks at the way in which medical systems, as well as systems of morality, connect with examination of sexuality to create and structure the formation of sexual and moral values. This chapter will not only focus on elements of medicine and sexuality, but will also analyse women and their role in the political arena, specifically looking at the purity campaign. Through this discussion the work of feminism and the connection between the Contagious Diseases Acts and the emergence of the female voice will be explored. The discussion will conclude by touching on the link between medicine, politics and the British Empire.

This chapter thus aims to create a better understanding of the theoretical aspects behind the Contagious Diseases Acts and the life of men and women under the influential hand of British rule. This will then help in the analysis of the archival sources and events surrounding prostitution and regulation in the Cape Colony. It will help clarify the differences and similarities that existed between the Cape, India, Hong Kong, Singapore and Australia. Most importantly, understanding the theory behind the Contagious Diseases Acts and the role of regulation in the British Empire will also contribute in the exploration of events in the Cape Colony and the reasons behind the paucity of research and discourse regarding this topic and South Africa.

### **3.2. Gender: ‘The Domestic Thesis’**

To fully comprehend the type of influence the “Double standard” had, the concept of the double standard as an ideology must first be dealt with. An ideology is the French derived term for the study or science of ideas. Over time the word has been introduced into the international arena and, as most words do, the usage and meaning was changed and altered. It is often used to refer to a set of closely related beliefs or ideas, even attitudes, which can be regarded as characteristic of a group or community.<sup>187</sup> J.M. Decker identifies an ideology as “a system of ideas... especially which forms the basis of economic or political theory and policy.”<sup>188</sup> The key word in his definition that is vital to the link between the double standard and it being considered an ideology would be the concept of a group of ideas forming the basis of a policy, much like that which the double standard did. Another important aspect of Decker’s definition of an ideology is

<sup>186</sup> Frank Mort, *Dangerous Sexualities: Medico-moral Politics in England since 1830*, (London: Routledge, 2000)

<sup>187</sup> John Plamenatz *Ideology: Key concepts in political science*, (MacMillan Press: 1971), 15

<sup>188</sup> James M. Decker, *Ideology*, (Basingstoke: Palgrave-MacMillan, 2004), 3

the way in which he states that it does not necessarily have to be purely economic or political, an entire social class can create an ideology, for example “a critique of the bourgeois ideology.”<sup>189</sup> In this way, and using the guides set out, the double standard can be considered to be an ideology which made great impact on the creation of policies and social norms within Britain and thus within the rest of the British Empire.

The double standard was as applicable and potently apparent in Britain’s various colonies, as it was in Britain itself. An important note to make on the discussion of the double standard is to emphasise that firstly, the double standard, although pivotal to many areas of life within Victorian Britain and many of its colonies, cannot be seen as being “in the nature of things” as it is not found within every society. Secondly, the double standard, although avidly present within the middle and upper classes of society, much cannot be said for the lower classes of British society. This is an important note to make as it allows for the understanding that even though classes, much like nations, have certain ideals and try and influence and change the outcomes of the lives of each other, much of it is just influence and does not necessarily change the entirety.<sup>190</sup>

As stated before, ideologies are made up of ideas and social constructs, and thus when a group of people think alike, or their thoughts on certain matters and opinions pertaining to certain activities and events are on par with each other they can be seen as being of the same ideological mind set.<sup>191</sup> This is helpful in understanding that the double standard was not a simple set of rules and regulations and cannot always be defined by a simple definition. However the double standard can be more easily identified as an influence that becomes subconscious, it becomes a mere opinion among opinions by influencing a set of traditions or societal norms. What people think is acceptable behaviour could have been subconsciously accepted by an established way of thinking, a way of thinking thus somewhere prior as having been influenced by the double standard.

Men and women had distinctly different roles in society, and for each role there was a set of norms and traditions. Broadly speaking, women were docile, and virtuous, with a high moral code and strong dependence on family.<sup>192</sup> They were seen as being biologically and culturally

<sup>189</sup> James M. Decker, *Ideology*, (Basingstoke: Palgrave-MacMillan, 2004), 3

<sup>190</sup> Keith Thomas, “The Double standard,” *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 206.

<sup>191</sup> John Plamenatz *Ideology: Key concepts in political science*, (MacMillan Press: 1971), 62-63

<sup>192</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991),

responsible for providing the next generation.<sup>193</sup> The role of the man was thus, in comparison, focused on that of masculinity, of the provider, and the decision maker. The two worlds were infinitely different and separated into what can be seen as two distinct spheres. The women belonged in the private sphere, the home, the hearth, and the domestic simplicities of life. Men were seen as dominating the public sphere within big businesses and as government officials, or in the army as soldiers or sailors.<sup>194</sup>

The concept of the female sphere and the designated roles within closely aligns with the influences from the ideology of the double standard. It is also an important concept to define and understand as it dominated the mindsets and views during this time. The importance and emphasis placed on the female and her morality, which is emphasised through concepts such as virtue, chastity, and sexuality, influenced not only the way women acted sexually but also the way in which they perceived themselves and their roles in society. The way in which women acted, and more importantly, were taught to think and function towards each other and towards men is deeply grounded in this concept.<sup>195</sup>

Although women were idealistically seen as belonging in the home and with their children, circumstance did not often allow for such frivolity and the lower classes, although still dictated by these idealist social norms, had to work in order to live and provide for their families. In such circumstances, women sought work as a way to contribute due to either a lack of income from a spouse, a family member or as an addition to the already meager salary being earned. Women who did seek out employment however, had a very small number of ‘proper’ jobs they could choose from. Many positions of work were simply not deemed fit for women to be employed in. Women were ideally fit to work as governesses, dress makers and as domestic servants.

It was said that women in the colonies earned good salaries and unlike that of women in England, their economic standing was of a higher standard. However in a letter written by Mary Brown, a prestigious member of the Women’s Enfranchisement League, the question that was brought forward was if women continued to accept these “good salaries” even though they were still less than what men earned for the same work done, then employers will continue to pay these “good

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<sup>193</sup> Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women’s Historical Writing* (Basingstoke: Palgrave MacMillan, 2010), 445.

<sup>194</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 298

<sup>195</sup> Keith Thomas, “The Double standard,” *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 195 – 199.



salaries.”<sup>196</sup> Many upstanding positions of employment, such as clerks, teachers, typists and shop assistants received less money than the men who did the same work. This meant that women were under selling themselves and thus remained dependent on their employer’s goodwill, accepting the terms that were derogatory to themselves and their fellow women. Under these circumstances it could be understood that often prostitution was a means by which working women could temporarily supplement their wages.<sup>197</sup> This was not necessarily openly and invitingly accepted as a form of work. Before the Acts that restricted and confined prostitutes, the industry was an integrated part of the cultural and economic life of the lower classes. The route back to a respectable status, at that time however, was still possible.

In Britain the growth of women in the industrial arena was a clear result of the impending Industrial boom taking place in Britain at this time. However, as stated early, the double standard did not always exist at all levels of a society, and this is especially true within the different classes in Britain.<sup>198</sup> The working and lower class women, due to their circumstances, were not always so concerned with certain standards and upholding certain ideals like the upper and middle classes, who had much more time to be creating awareness about situations such as wages, prostitution and gender inequality. These women often saw it as their mission to expose these atrocities of life through their ‘missions.’ They used their position of privilege to visit the houses of the poor and those they considered as living lives dominated by poverty, drink, vice and ignorance. These women took their own brand of morality to the homes of the poor and those they saw as needing advice on how to attain the high standards ideally regarded for success.

The corruption of the distinct spheres of public and private were further blurred through the influence of the double standard and male immorality.<sup>199</sup> The double standard here, simply put, is the view that sexual promiscuity prior to, or outside of, marriage is but a mild offense for a man. It could be overlooked, and certainly was seen as a forgivable offence. However should a woman dare such acts, it would deem her honourless and in many societies influenced by these western ideals, she would hardly ever recover her reputation once fallen from her virtue.<sup>200</sup>

<sup>196</sup> Mary Brown, *Would the Women’s Vote effect the Social?* 1909. Cape Town National Library: SABP 151 (30).

<sup>197</sup> E.M. Sigsworth and T.J. Wyke, “A Study of Victorian Prostitution and Venereal Disease,” in *Suffer and be Still: Women in the Victorian Age*, edited by Martha Vicinus (Indiana University Press, 1992).

<sup>198</sup> Keith Thomas, “The Double standard,” *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 206

<sup>199</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 298

<sup>200</sup> Keith Thomas, “The Double standard,” *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 195 – 196

Drawing on the definition of the ‘domestic thesis’ and the ideal roles of men and women in the Victorian era, it can again be noted the women were viewed as having a specific role, that of being the upholder of purity, chastity and of virtue.

“Chastity in women... is a star that has guided human nature since the world began, and that points far higher and teaches us of the other sex things which we could not otherwise know. We bow in humble reverence to that high star of chastity, and we celebrate it in song and poetry.”<sup>201</sup>

The ideal women knew her place, in the home and within society. Women were seen in this way as being contrastingly opposite to the lustful male, with his uncontrollable urges and unruly member.<sup>202</sup> Each party knew their place in society; the prostitute however, upset this ideal balance and created conflict between home and economy, the public and the private, at a time when boundaries were being more contested than ever.<sup>203</sup> Society was deeply instilled with this idealistic notion of the perfect family and the prostitute corrupted these notions. The fallen woman, as previously mentioned, was seen as acting as the “efficient guardians of virtue.”<sup>204</sup> In 1867 a letter was written to the Colonial Secretary from the office of the Colonial Medical Committee in which it clearly states that this notion of the prostitute was well embedded in the thoughts and attitudes of those in the Cape, as much as it was present in Britain. Prostitution, as stated in this letter, was seen as a terrible social evil, although necessary one. It was deemed a “safe guard to our phallic morals”, protecting the chastity of the nation and its origins.<sup>205</sup> This way of thinking was as prominent at the Cape in those holding higher positions of prestige and thus having been placed there through the British government or regiments, as it was with those from the middle class society members in Britain. Many colonial authorities deemed prostitution a necessary by-product of the “colonial endeavour.”<sup>206</sup>

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<sup>201</sup> Keith Thomas, “The Double standard,” *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 195.

<sup>202</sup> Ronald Hyam, *Understanding the British Empire*, (Cambridge: Cambridge University Press, 2010), 46 Louise Creighton, *The Social Disease and How to Fight it*, (Edinburgh: Ballantyne, Hanson & Co: 1914), 13.

Kirsten Lucker, “Sex, social hygiene, and the state: The double-edged sword of social reform,” *Theory and Society* 27 (1998), 603.

<sup>204</sup> Keith Thomas, “The Double standard,” *Journal of the History of Ideas* 20, No. 2 (Apr. 1959), 197.

<sup>205</sup> MC, *Letters received: Secretary of the colonial medical committee to the colonial secretary*, 15 February 1867, (MC 29, Ref: 360 – 361), National Archives of South Africa, Cape Town Archives Repository (KAB)

<sup>206</sup> Bartley Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women’s Historical Writing* (Basingstoke: Palgrave MacMillan, 2010), 445.

The etymology of the word ‘prostitute’ would suggest a definition along the lines of “a standing forth or plying for hire in open market.”<sup>207</sup> However many forcible divines and moralists have maintained the thought that all illicit intercourse is seen and defined as prostitution. This means that the word becomes as applicable as “fornication” and “whoredom” to the female who, whether it be for hire or not, voluntarily surrenders her virtue. Accordingly then her first offence would be as much an act of prostitution as would its repetition. The distinctions, however, between the several shades of female frailty are so faint, and it seems so immaterial whether it is applied to all erring women indiscriminately the term “prostitute”, or another, perhaps coarser one, about which no etymological quibble could arise, that any further disquisition upon the head feels quite uncalled-for and uninteresting. Thus this final definition of prostitution can be put forward, as almost aligning with the divines and moralists, and that is “that the fact of ‘hiring’, whether openly or secretly, whether by an individual or a plurality in succession constitutes prostitution.”<sup>208</sup>

A generalisation frequently made concerning prostitution was that the women came from less desirable backgrounds and saw prostitution as a step up from their former lives. In England, this was very often the case and thus prostitutes were all viewed by this same generalisation, although some of them were found to also have come from upper classes, they were however, better known as “kept-women.”<sup>209</sup> It was hard to accept the thought that someone would choose the lifestyle of a prostitute, but girls were frequently lured into prostitution, not for the money but having yielded to the enticing stories of the other prostitutes of the fineries and luxuries that the lifestyle provided.<sup>210</sup> However despite luxury and finery the stench of filth and low class dirt still hung profusely around the idea of the British prostitute. This was further illuminate by those who had spent time in the Orient. Many of the stories brought back of prostitutes in India and Japan, speak of the attractiveness of the non-European. The prostitutes were amusing, playful and educated hostesses. This was a contrasting figure to the “British whores, nasty, dirty and coarse, drawn from deprived backgrounds.”<sup>211</sup> In India and Japan, prostitution was an honourable estate,

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<sup>207</sup> William Acton, *Prostitution, considered in its moral, social & sanitary aspects, in London and other large cities*, (London: John Churchill, New Burlington Street, 1857), 7.

<sup>208</sup> William Acton, *Prostitution, considered in its moral, social & sanitary aspects, in London and other large cities*, (London: John Churchill, New Burlington Street, 1857), 7.

<sup>209</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 61.

<sup>210</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 61.

<sup>211</sup> Ronald Hyam, *Understanding the British Empire*, (Cambridge: Cambridge University Press, 2010)

and the girls were regularly found to have been educated and trained in the art of the concubine. These women too, were often from higher class families and unlike most other European and colonial prostitutes, were welcomed back into society without disgrace or being seen as “fallen women.”<sup>212</sup>

As for the cause of prostitution, much has been contributed over the centuries of research on the subject about prostitution as a ‘survival strategy.’ This discussion has always been on the forefront of the prostitute problem and there have been inclinations to generalise that most females, if not most feminist historians, stress that women were driven into prostitution as their only means to earn an income. This is an argument that is favoured in debates surrounding prostitution, whether it be Victorian prostitution or modern day equivalents. A different way of looking at the situation as explored by Hyam in his discussion concerning “Empire and sexuality”. He points out that, especially during the colonial era, many girls were enticed into this work environment by other prostitutes, who tempted them into the lifestyle by given them insight to the finery and luxuries that came with that particular way of life.<sup>213</sup> Another focus of the prostitution debate is that the women were the victims of man’s sexual urges, although counter arguments have been put forward that suggest that women should not so easily be written off as victims but rather as entrepreneurs defined by the excitement of the times they lived in. Thus seeing prostitution as a way to exploit an opportunity and often used their abilities to turn the circumstances to their advantages.

### **3.3. Power: ‘The White Man’s Burden’**

The poem by Rudyard Kipling, aptly entitled “The White Mans Burden”<sup>214</sup> still rouses much emotional response and has been analysed from a variety of perspectives. This study will neither analyse nor respond to the poem, but rather use the poem to create a starting block off of which to discuss the interactions between the Empire and the Colonial worlds. The poem seems to command the “white man” to go forth and colonise and influence other nations for the benefit of all people. It however also warns that colonising will bring more than just profit and gain. Although the poems origins lie with America taking on the Philippines, the poem has also been seen to motivate the Christianisation of the ‘heathen’ countries encountered in the expansion of

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<sup>212</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003)

<sup>213</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 2014)

Britain. One Historian has also depicted the ultimate ‘burden’ of the British Empire as being the man’s struggle with sexuality.<sup>215</sup> It was within this ‘burden’ that the need to control sexual practices and the confines of sexual behaviour was truly pushed to its limit. This is where this poem connects so powerfully with the theme of power. Power and masculinity was never so predominantly linked as in the sexual control of the British Empire.<sup>216</sup> The expansion of Empire and the interaction with new lands and new people, while empowering and profitable for the British Empire, also introduced a new set of fears into the mindsets of the European. Those fears stemmed mainly from the “unique and observable” physical differences of the racial and sexual “others” that were encountered in every colony.<sup>217</sup>

It can be seen that these ‘fears’ produced greatly the mindset of the ‘other’ in the Victorian era. No matter where the British Empire went, men and women of different nationalities colour and traditions were seen as being inferior beings in need of ‘civilising.’ This “civilisational model of Imperialism” was supported by the popular argument that these inferior beings would only benefit from good colonial administration, and through education and evangelism, the British would not only be able to uplift these people but also curb poverty and disease. However this was a rather empty promise as the British Empire could not even promote this at home.<sup>218</sup>

It is within this promise to curb disease that this research finds its footing, specifically the need to curb venereal disease, and thus the ensuing need to control the sexual relations between the British and the locals. As stated before, sexual control in the British Empire embodies the power struggle of the entire expansion. Young Victorian explorers set off overseas to pursue not only a career in the Empire but also to embrace the free lifestyle of single men. The need for sexual control can be seen as being rooted in two distinct relationships. The first of these relationships was between British men and British women. The second of these were found between the British man and the colonised women.

The relationship between the idle, frail, romanticised British women and the dominant British man was the first important power relationship that existed in the Victorian era. As discussed

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<sup>215</sup> Zine Magubane, “Which Bodies Matter? Feminism, Poststructuralism, Race, and the Curious Theoretical Odyssey of the ‘Hottentot Venus,’” *Gender and Society* 15, No. 6 (Dec., 2001), 819.

<sup>216</sup> Timothy Keegan, “Gender, Degeneration and Sexual Danger: Imagining Race and Class in South Africa, ca1912,” *Journal of South African Studies* 27, No 3. (Sept., 2001), 459.

<sup>217</sup> Zine Magubane, “Which Bodies Matter? Feminism, Poststructuralism, Race, and the Curious Theoretical Odyssey of the ‘Hottentot Venus,’” *Gender and Society* 15, No. 6 (Dec., 2001), 818.

<sup>218</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (Harlow: Pearson Education Limited, 2007), 100.

previously the distinct relations between the man and woman in Britain was divided into clearly defined roles. However the sexual relationship also influenced many of the mindsets that the men took with them to the colonies. Although men who made a living from work outside of the military did exist, and often with wives in tow, in the colonies, the majority of the men were from the military. Military men were seldom allowed to be accompanied by wives, and thus very few of them married until much later in their lives. This was primarily due to lack of funds available to house and support military men with their wives. This means that there was a distinct lack of female influence in the colonies, especially in regions of Africa, India and the Asian colonies, as the environment was thought to be too harsh for the delicate constitutions of the British women. Doctors supported this by stating that the rigours of the colonial climates were too much for women, and the journey and lifestyle was too dangerous.<sup>219</sup> This meant that women seldom were present in these foreign countries, therefore not only creating an imbalance in sexes but it also meant that the influence taken over into these countries was often from a masculine only point of view. That was until the late nineteenth century when more and more women began to expand their horizons and sought to travel to destinations such as Hong Kong and India. The earlier reaction and strong women's movement in New Zealand and Australia, can in this way, be deemed due to the early influence of women that had been present in those colonies for much longer than in others due to the climate being thought to be the best and most like Britain and therefore safe for women to travel and live in.

The mindset in the Victorian era that dominated this relationship was submerged in the concept of the 'domestic thesis' and thus the ideal woman was seen as being submissive and domesticated. Women were also importantly seen as the producers of the next generation of the nation, and thus the power to produce heirs to the Empire lay in the hands of the female. This thus meant that the actions of women were judged in a higher regard. If the woman was seen as the provider of the next generation, then her purity stood for the purity of the nation. Therefore, in contrast, her immorality would represent the defilement of it.<sup>220</sup> In this regard two important reactions existed. Firstly, the presence of the British prostitute in the colonial spaces was heavily frowned upon, as it was thought that if the local man could purchase the services of the British women then they would start to think in sexual terms of all white women and thus endanger the

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<sup>219</sup> Philippa Levine, *The British Empire: Sunrise to Sunset*, (Harlow: Pearson Education Limited, 2007), 143.

<sup>220</sup> Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women's Historical Writing* (Basingstoke: Palgrave MacMillan, 2010), 446.

virtue of any expatriate women.<sup>221</sup> It was also seen that having a British prostitute available for locals to retain would undermine the cultural and moral supremacy of the British Empire.<sup>222</sup> This however did not mean that British and European prostitutes did not exist in the colonies; the majority of them however were only employed by brothels servicing the British forces. In terms of regulation, many cities had two prostitution spaces, one which serviced locals and the other which was predominantly for expatriates.<sup>223</sup> These were often found close to military barracks and were heavily regulated with controls and procedures employed to survey and inspect the women for infections. The latter was usually less hampered by strict systems of control and regulation, however there were very few brothels in the colonies that had no form of regulation.

The second relationship pivotal to the understanding of sex and power in the British Empire is that of the coloniser and the local prostitute. Life in the colonies was often filled with hours of boredom and many of the men turned to sex and a lifestyle of debauchery. Although prostitution was readily available in Britain, it was more heavily frowned upon in the home country than it was in the colonies. It was a common view during this time that men could not control their sexual urges and that abstinence, especially in difficult climates was risky for the health of troops.<sup>224</sup> Along with this was the fear that without frequent interactions with women, men would turn their natural urges onto each other and partake in homosexual practices.

Thus prostitution was deemed a necessity in the colonies. It was also a mechanism used by the British Empire to enforce control and superiority over the local population. Sexuality became the prominent marker of 'otherness'<sup>225</sup> as it was depicted that the non western cultures were permissive in their sexual morality and therefore it was acceptable to employ their women as prostitutes. Culturally exclusive roles that were previously filled by women were later under British control regarded as forms of prostitution. Prior to the British influence, however, these positions were held without shame or scorn. Positions such as the temple dancers in India and the concubines in Asia were later regarded as nothing less than prostitution. Thus the fact that such

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<sup>221</sup> Philippa Levine, "Orientalist Sociology and the Creation of Colonial Sexualities," *Feminist Review* 65, *Reconstructing Femininities: Colonial Intersections of Gender, Race, Religion and Class* (Summer, 2000), 13.

<sup>222</sup> Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women's Historical Writing* (Basingstoke: Palgrave MacMillan, 2010), 446.

<sup>223</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire*, (London: Routledge, 2003), 40.

<sup>224</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 88.

<sup>225</sup> Ann L. Stoler, "Making Empire Respectable: The Politics of Race and Sexual Morality in 20<sup>th</sup> Century Colonial Cultures," *American Ethnologist* 16, No 4 (Nov., 1989), 636.



roles existed for women prior to the takeover of the British Empire was used to support the theory that the nations were inferior and barbaric. The prostitute was a very complex figure in the workings of the Empire. On one hand, the business of women and sex was something that the British were struggling with even in their home country. However it was also seen as an important fixture in the colonies for the physical and mental health of the troops. As time passed though, and the role of the prostitute became entwined with that of venereal disease, things started becoming more complex. There was suddenly a need to realign the mindset of the Empire. What was previously seen as a relationship of superior domination was quickly becoming the downfall of the Imperial troops. This was however, again turned in favour of the British, and the problem of illness and disease was used to illuminate the greater dangers of the uncivilised 'other' and the moral disturbances of their actions.<sup>226</sup>

Although prostitution can be seen as shedding light on the western male fantasies of power and sexual access, it soon became a bigger problem than previously anticipated. With the growth of women's movements back home, and the dissolving of the "domestic thesis,"<sup>227</sup> the interaction between the male dominant coloniser, and the silent, passive colonised women, changed dramatically.<sup>228</sup>

### 3.4. Moral Politics: 'The Growth of an Idea'

"The reassessment of the past becomes particularly important when social conventions are threatened or the future appears uncertain."<sup>229</sup>

This is precisely what occurred in the later years of the nineteenth century. Through the analyses of the double standard, and the separation of roles into public and private, along with the interaction of power and sexual relations in the colonies, the future for women in the Victorian era was becoming increasingly uncertain. With mounting anxieties over the separation of sex

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<sup>226</sup> Philippa Levine, "'A Multitude of Unchaste Women:' Prostitution in the British Empire," *Journal of Women's History* 15, no 4 Winter, (2004) 159.

<sup>227</sup> Lawrence E. Klein, "Gender and the Public/Private Distinction in the Eighteenth Century: Some Questions about Evidence and Analytic Procedure," *Eighteenth-Century Studies* 29, No. 1, The Public and the Nation (Fall, 1995), 97.

<sup>228</sup> Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women's Historical Writing* (Basingstoke: Palgrave MacMillan, 2010), 390.

<sup>229</sup> Elizabeth Fee, "The Sexual Politics of Victorian Social Anthropology," *Feminist Studies*, 1, No. 3/4, Special Double Issue: Women's History (Winter -Spring, 1973), 23



from procreation and the resultant association with pleasure and gratification,<sup>230</sup> women began to voice their concerns, gradually becoming more politically, medically and economically opinionated. The ‘domestic thesis’ meant that women from upper and middle classes were often left to their own devices and many of them joined organisations to assist with the poor, sick and aged. Through this work women were exposed to the misfortunate, or ‘fallen women’.<sup>231</sup> It was through this interaction that women began to break away from their naiveties and face the truth about the dire circumstances of many women, not just in Britain itself but also in the colonies. These truths included aspects such as promiscuity, disease, the prostitute, and the immoral behaviours of their men, all subjects that were deemed inappropriate for women to talk about.<sup>232</sup> What used to be a lower class problem was spreading and affecting innocent women and children through the dormant disease typically picked up by their husbands on youthful adventures around the Empire.

“...Lying underneath all our civilisation, all our education, all our home-life, all our religious life, there is an increasing and a deadly evil, which is bound to sap the vitality of a young nation, and undermine the physical and moral health of a new people. This evil will never be touched by men alone.”<sup>233</sup>

As the venereal disease epidemic worsened, and the regulatory systems failed, women felt that not enough was being done to protect future generations. Thus when the actions and consequences of the Contagious Diseases Acts came to light, it was exactly the platform they needed to take the stand and voice their unhappiness with the way men were handling the situation.

Women were said to be ignorant in terms of sex and at that time, it was deemed inappropriate for women to partake in any discussions concerning sexual matters. However in 1869 Josephine Butler changed the world women knew forever, with the “Ladies Manifesto.”<sup>234</sup> The manifesto, put forth through the ‘Ladies National Association’ denounced the actions of the Contagious

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<sup>230</sup> Philippa Levine, “‘A Multitude of Unchaste Women:’ Prostitution in the British Empire,” *Journal of Women's History* 15, no 4 Winter, (2004) 162.

<sup>231</sup> Judith R. Walkowitz, “Male Vice and Feminist Virtue: Feminism and the Politics of Prostitution in Nineteenth-Century Britain,” *History Workshop*, No. 13 (Spring, 1982), 80 – 81.

<sup>232</sup> Emma Liggins, “Writing against the ‘husband-fiend’: syphilis and male sexual vice in the new woman novel,” *Women's Writing* 7, No 2 (2002),

<sup>233</sup> Mary Brown, *Would the Women's Vote effect the Social? 1909*. Cape Town National Library: SABP 151 (30),

<sup>234</sup> Judith R. Walkowitz, “Male Vice and Feminist Virtue: Feminism and the Politics of Prostitution in Nineteenth-Century Britain,” *History Workshop*, No. 13 (Spring, 1982), 80.

Diseases Acts and attacked them for being discriminatory practices, both racially and gender-wise. Men were, through these Acts, placing the blame for the spread of the disease on the shoulders of 'fallen women.' The Ladies National Association however proposed a different view of the circumstances stating instead that the world was being developed solely for men, by men, and those women were becoming victims in this male dominated world; victims of men's laws, men's bodies and in accordance with the Acts, victims of the "steel penis."<sup>235</sup> This was the instrument used by doctors, known as the speculum, to inspect females for any signs of venereal disease. The entirety of the movement against immoral behaviours, social purity and the injustices towards women, were both initiated by, and carried out through the predominate actions of women.<sup>236</sup> Although it must not be overlooked that there certainly was a presence of men who were also opposed to the Contagious Diseases Acts and worked alongside women to better the circumstances for women, and prostitutes in particular.

In the 1880s social purity, a euphemism for sexual purity, emerged stronger than ever.<sup>237</sup> The main objective of the purity campaigns was the abolishment of the Contagious Diseases Acts. Feminist groups pointed out that the regulatory practices of examining the women for disease was against women's fundamental human rights. They also challenged the assumptions concerning the quality of women's roles in society. Through these actions, the theoretical underpinnings of the status quo were re-examined. The purity campaign, and the ensuing suffrage movement was therefore not only about political endeavours of abolishment and voting rights, but also a way in which women could reinvent the domestic subordination of women. There were, however, other concerns which the purity campaign sought to change. One of the most influential aspects was that of age.

The age of consent was not only an issue in Britain but many colonies too. The prostitution sector, in Britain as well as in the Cape Colony, was dominated by juvenile participants. There have been contemporary observers, Ryan, Mathew and Bloch<sup>238</sup> who have commented on the fact that the British seemed to be among the few who struggled with the sexual promiscuity of pre-

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<sup>235</sup> Judith R. Walkowitz, "Male Vice and Feminist Virtue: Feminism and the Politics of Prostitution in Nineteenth-Century Britain," *History Workshop*, No. 13 (Spring, 1982), 80-81.

<sup>236</sup> Sue Morgan "'Wild Oats or Acorns?' Social Purity, Sexual Politics and the Response of the Late Victorian Church," *Journal of Religious History* 31. No 2. (June 2007),

<sup>237</sup> Sue Morgan "'Wild Oats or Acorns?' Social Purity, Sexual Politics and the Response of the Late Victorian Church," *Journal of Religious History* 31. No 2. (June 2007), 152.

<sup>238</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 62.

pubertal children, of the lower classes. However the problem with these age inappropriate workers was that although, in Britain, there were brothels that specialised in providing this for their clients, many of the younger prostitutes were often clandestine. In the Cape Colony the problem was highlighted when a specific case was brought to the attention of the public in the Cape Times in 1899.<sup>239</sup> It became known as “The Cape Town Case” and dealt with the treatment of prostitutes, aged 12 and 14, at a Lock Hospital. The problem surrounding the age debacle was, that at the time, the government had yet to raise the age of consent from 12. This was deemed by many as too young and women fought long and hard to raise the age of consent even further.<sup>240</sup> Although the age of consent is a battle with a history of its own, it is a very important aspect to highlight as it falls in rather closely with the fact the under the various laws that were put in place to regulate prostitution, none of the laws and more importantly, none of the Acts, made specific mention of the age of consent or the age at which females would be deemed prostitutes and, thus could be treated and punished as prostitutes. Although the problem of definition within these Acts will become apparent later on in this research, it is an important aspect to mention as the definition of prostitution was unclear and ambiguous; the age of consent and of appropriate participation in said Acts was also not defined. So the question remained, was juvenile prostitution so shocking when at the age of 13 a young girl came into her age of consent? The question that remains though is whether or not a young girl of 13 could still be considered a juvenile and thus, was it so shocking if she were to join the ranks as many had before her?

Another concern of the purity campaigners was that of masturbation and school boy sex.<sup>241</sup> By the 1860s masturbation had become a symbol of catastrophe and was similarly regarded to be just as damning to the nations, as the actions of an immoral women.<sup>242</sup> Masturbation was seen as a cause of degeneration, it was believed that if a man became too accustomed to gratifying his own needs, this behaviour would then undermine his self-discipline, thus making him weaker to other temptations in life.<sup>243</sup> This also linked in to the dangers of homosexual behaviours, which was a

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<sup>239</sup> Colonial Office, *Administrative and Convict service, correspondence concerning article “A Cape Town Case” in the Cape Times*, 1899, (CO 2294, ref: Folio 1264), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>240</sup> Mary Brown, *Would the Women’s Vote effect the Social? 1909*. Cape Town National Library: SABP 151 (30),2.

<sup>241</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 66

<sup>242</sup> Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women’s Historical Writing* (Basingstoke: Palgrave MacMillan, 2010), 446.

<sup>243</sup> Lesley A. Hall, “Forbidden by God, Despised by Men: Masturbation, Medical Warnings, Moral Panic, and Manhood in Great Britain, 1850-1950,” *Journal of the History of Sexuality* 2, No. 3, Special Issue, Part 2: The State, Society, and the Regulation of Sexuality in Modern Europe (Jan., 1992), 365

further concern of the Purity Campaigners. Influenced from the colonial worlds, whose people were viewed as being morally lax and sexually deviant, led the British to adopt measures, such as prostitution, in order to lessen the need for the use of these sexual outlets.

Prostitution thus led to the further problem of solicitation and a number of other concerns that the purity campaign dealt with over the years included things like pornography, incest and nude bathing.<sup>244</sup> The purity campaign was indeed thorough in its scope but one key aspect remains the most important influence of all, and that was the exportation of the purity campaign.

### 3.5. Conclusion

This chapter set out to use the background study done on the events surrounding regulation in the colonies and the protests and movements that stemmed from that, to then create a theoretical study of three themes, gender, power and moral politics. These three fundamental principles are pivotal to understanding the influences and control that the British Empire had on world views during the Victorian Era. In the already mentioned words of Ronald Hyam, “the expansion of Europe was not only a matter of Christianity and commerce; it was also a matter of copulation and concubinage.”<sup>245</sup>

The extent of influence that this research focuses on can be seen as falling under the terms “copulation and concubinage”<sup>246</sup> with a strong influence against this coming from the spread of Christianity. Through aspects such as gender, it can be seen that the British social structure of public and private roles for men and women was not left at home when the Empire expanded. The theories and assumptions attached to these positions went with the men and women who travelled the globe and thus heavily influenced many of the colonies. However the influence was not only a one way street and British opinions as well as assumptions also came to be influenced by the local traditions. The greatest influence that the public and private divide had, as well as the existence of the Double standard, was on the role of the prostitute. Participating in activities that were perceived as ‘private’ but making them available on a ‘public’ scale changed the dynamic of a previously guarded topic, not only at home, but in the colonies as well.

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<sup>244</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 66.

<sup>245</sup> Richard Phillips, *Sex, Politics and Empire: A postcolonial geography*, (Manchester: Manchester University Press, 2006), 1.

<sup>246</sup> Richard Phillips, *Sex, Politics and Empire: A postcolonial geography*, (Manchester: Manchester University Press, 2006), 1.

Power was the most dominant aspect that propelled the Empire forward. Power over land, people and resources changed the way that the world was viewed. The most powerful influence that the concept on power had in the Empire was the effect that it had on the subordination of other nations. Along with this came the increased transformation that the British presence had on basic traditions in the lands they colonised. One such area that was pivotal to study in this research was the way in which sexual allowances and moral laxity was perceived. The sexual tolerance of many of the local nations, such as the Chinese and Indian, was viewed as a sign of how much the world outside of Europe needed to be taught how to be proper and civilised. This was used as an excuse as to why the Empire could, and did, dominate foreign powers and suppress them with their British influences. The most important figure used to represent this crying need for civility was the prostitute and her varying roles throughout the history of the Empire. The influence of power was particularly important in reference to this figure, as it was through the commercialisation of prostitution for the military sake, the ensuing regulatory practices and the stigma attached to her that the influence of power can truly be recognised.

The last theoretical component looked at was that of moral politics. This was an important aspect to discuss as it plays a large role in the comparison of the Contagious Diseases Act in Britain, and the reaction to it in South Africa, in particularly the Cape Colony. By the 1870s a profound number of women's groups had emerged to take a stand against the treatment of women and the role of women in society. This was fundamentally rooted in the reaction against the treatment of women by the laws implemented through the Contagious Diseases Acts. The specific focus was on the treatment of the prostitute, and the way in which women were being given a bad name, blamed for all the viral wrongs in the world and treated with disdain and disregard in order to protect and please the wife of the man.

Thus it can be seen that the prostitute and the actions of copulation, concubinage and ultimately, the Contagious Diseases Act played a large role in the structuring of the British Empire, specifically in colonies such as India, Hong Kong, Singapore and Australia. The one colony that is often overlooked in terms of its contribution to the Contagious Diseases discussion however, is that of the Cape Colony.

**Chapter 4:****Sexual Regulation in the Cape Colony c. 1868 – 1881.**

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**4.1. Introduction**

The venereal disease crisis and the ensuing Contagious Disease debacle is a pivotal time in history, not only in terms of politics, medicine and gender studies but also as a social study of the response of an entire colony. In the entire wider scheme of the British Empire, it can often seem as though the Cape Colony is disregarded as an entity that had vital social responses, as interesting and fascinating and richly informative as colonies such as India and the Far East. However, beyond the scope of the South Africa War, aspects such as the involvement of the colony in political obstacles such as policies controlling venereal disease, seems somehow, forgotten.

The Cape Colony was never a peaceful place, recurring border wars and territorial conflicts took up much of the attention given to the Colony. The exchanging of the Colony between so many different hands also led to an increasingly fascinating and diverse set of ideas. The first prominent influence in the Cape was the Dutch, and then the British took over control in 1803. Prior to this time the white population at the Cape was that of a fairly homogeneous nature. However when the British took over complete control, it also led to large group of settlers making their way to the colony. These British influences brought an entirely new element, one vastly different to the Old Dutch Settles.<sup>247</sup> One of the ways in which this new element was particularly influential was in the politics of the Colony. After their arrival the government was placed under much pressure due to the new ideas that arrived with the post-Napoleonic British settlers.<sup>248</sup> This was pivotal in the way that these new ideas not only influenced the way in which venereal disease, women and medicine was handled, but also in the introduction and the repeal of the Contagious Diseases Act.

This chapter seeks to provide an introduction to the problem of venereal disease within the Cape Colony and looks at the way in which the general public responded to the introduction of the

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<sup>247</sup> M.A.S. Grundlingh, *"The Parliament of the Cape of Good Hope: With Special Reference to Party Politics, 1872 to 1910,"* Thesis for a D.Phil Degree, University of Stellenbosch, (1945, 12.

<sup>248</sup> Rodney Davenport and Christopher Saunders, *South Africa, a Modern History*, (Macmillan, 2000), 101.

Contagious Diseases Acts in 1868. It will also show that like many of the other colonies in the British Empire, the Cape Colony had prior forms of regulation in an attempt to diminish the existence of venereal disease. The chapter will further explore the details about the Act, the resulting consequences on the population, and the way in which these were documented.

One of the main focuses of this chapter is a report put together from the months leading up to the Contagious Diseases Acts implementation, as well as the months after it was passed. The report was compiled using various hospital registers and documentation as well as the formal reports that were required to be set up in accordance to Contagious Diseases Act. One of these was the register on which any women thought to be a common prostitute was to be registered. This register is particularly important as it highlights a few factors that contributed to the overall dissatisfaction and frustration surrounding the Acts. A culmination of these factors accumulated and amidst pressure from both the Cape and England the Act was repealed in 1872. It was during this time that women began to rally together against common causes such as the treatment of women, the age of consent and ultimately, the right to vote. This entire movement, which has been considered as the first wave of feminism had a wide reach, unfortunately an in depth focus would be beyond the scope of this study. However, the purity campaign, one of the major links between the feminist movement and the Contagious Diseases Acts, will be looked at briefly in a later chapter.

## **4.2. Venereal Disease in the Cape Colony**

The Cape Town region was set up initially as a trading post, but more importantly as a rest stop between Britain and the rest of Europe and the East, in particular India. As the settlement grew it changed hands a number of times, between the British, the VOC and the Batavian governments. Although it was under the British rule that the Acts were implemented to control disease through prostitution and brothel regulation, brothels and prostitution was also an issue encountered by previous governments. In 1797, during the VOCs reign over the Cape, a Mr JD Karnspek made a declaration in a criminal case, on behalf of Mr George Hendrick Veyll. The case is written in what seems to be Dutch but it can be interpreted that Mr Veyll was involved in a criminal case and was found to be living in a brothel. He was unaware of the fact that the room he was renting was allocated inside a property that also ran as a brothel until he stayed there. The owner, Mr Jan



Engel, was thus also running an unsolicited brothel.<sup>249</sup> This case illustrates that even before the British came in to regulate these aspects they were under the attention of those in power over the colony. This also reveals that the problems with prostitutes and brothels was not a problem introduced into the Colonies by the British Empire, but was pre-existing even before regulatory practices highlighted the sector. Although the discussed case is from the 1720s and does not touch on the connection between prostitution and diseases, it is important to note that the awareness of prostitution and brothel keeping as being problematic was already occurring well before the English Contagious Diseases Act was formally introduced.

The history of venereal disease and its connection to vice goes back much further in history than the 18<sup>th</sup> century though. In the case of this study the term venereal disease consists of two distinct diseases, gonorrhoea and syphilis. These two diseases both have rich histories. Gonorrhoea, for instance, has been found in records dating back to Ancient Greece. Records kept by Hippocrates have been found in which he makes reference to an illness which, through his detailed descriptions, leaves no doubt that it was gonorrhoea.<sup>250</sup> The history of syphilis however, is not so straight forward. Many a debate has arisen around the origins of the disease; some say that the ancient Chinese dynasties have shown proof of origin, whereas others have pursued the course that the early Romans were first afflicted with it. However none of these have ever been confirmed.<sup>251</sup> One theory that has stuck though, is that affiliated with the New World. The theory was claimed in the court of the Spanish King who received Christopher Columbus after his first return from the Americas. It was after his return that the disease was first seen to have appeared in Spain. The origins however, become blurred again in 1495 with King Charles VIII and his campaign to seize the throne of Naples.

The Spanish army was sent to assist his campaign and it was with its dissipation and debauchery that led to the spread of a new plague, into Italy. It was at this time when the French arrived on the scene and thus the Italians placed the blame squarely on the shoulders of the French and named the new disease the French sickness. The French in turn called the disease the Neapolitan disease due to the fact that prior to the war the disease had never been seen or heard of, and as armies invaded new territories and travellers discovered new lands, the disease was scattered

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<sup>249</sup> Notorial Protocols, *Minutes of Declarations and protests, with index*, January 1797 – December 1797, (NCD 2/21), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>250</sup> Christopher Michaud, *Gonorrhoea*, (New York: The Rosen Publishing Group, 2007), 7.

<sup>251</sup> JMS Pearce, "A note on the origins of syphilis," *Journal of neurology, neurosurgery and psychiatry* 64, No 4 (1998), 542.



across the seas, taking the disease on to Africa. The conclusion was drawn that the disease spread readily through intercourse between infected men or women.<sup>252</sup>

No matter the exact origin of the disease, one thing is certain, the disease spread like wildfire across, not only Europe, but the world. It was the time of the great navigators and in their adventures to unknown lands, they took with them not only progress and change, but disease. By the 16<sup>th</sup> century records have been found that show the disease had spread all the way to Japan, crossing India and the Far East. Two centuries would pass though, until syphilis would show up in records in the Cape.

The first recorded incident of syphilis in South Africa came in 1716 when a report was filed over the concern that the evening fires being lit in the Slave Lodge was exposing the entire area to the danger of fire. This seems an odd record to find the origins of syphilis in South Africa in, however the fires were reported as being lit in order to prevent the slaves from moving around the lodge without being seen, thus preventing them from engaging in any irregular conduct with those who were being temporarily accommodated at the Lodge, which was often the case when ships were docked at the harbour.<sup>253</sup> The Dutch East India Company had set up this slave lodge in Cape Town; however the lodge soon became known as the leading brothel in the area and was fairly renowned and highly visible.<sup>254</sup> This meant that soldiers and sailors who were being housed over night in the slave lodges accommodations would engage in sexual activities which led to an outbreak of venereal disease which spread to an almost ineradicable extent.<sup>255</sup>

By the 18<sup>th</sup> century syphilis and gonorrhoea were fairly well known diseases, well researched with a fairly large amount of pamphlets and books having been published on the topic. However the knowledge in the Cape seemed only sparse as can be seen by J.J. Grandam who was appointed the third surgeon at the Cape Hospital in 1730. A year later, Mr Grandam became a citizen of the Cape and started his own general practice. He was a precise man, as can be seen by the books and notes he left behind. These books, more than any other in the South African medical profession, exhibit the use of alchemical symbols as a species of code. During 1733 a

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<sup>252</sup> Claude Quétel, *History of Syphilis*, (Cambridge: Polity Press, 1990), 35.

<sup>253</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971), 22.

<sup>254</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 93

<sup>255</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971), 22.

note was made on the treatment that a Mons. Coebergen received for gonorrhoea. It was also noted that for six rixdollars the man was cured. He also had numerous notes on remedies for other venereal diseases, pills for something known as 'virulent,' as well as gonorrhoea. Powders were also used in a patients drink daily but the most unique remedy proposed by him as a solution to prevent further infections of venereal diseases was to forbid them to drink with women.<sup>256</sup>

During the establishment of the Batavian Republic (1803 – 1806) a determined effort was made to diminish the existence of venereal disease in the Cape. It was during this time that the first attempts to control the diseases were made through regulation. General Janssens issued a proclamation based on the complaint that the women of the area were responsible for the venereal disease among the troops. Three 'types' of women were classified and punishments were set accordingly for any of whom were found to be infected.<sup>257</sup> This is an important aspect in the history, not only of venereal disease but also regulation, as it shows that, much like other colonies, a form of regulation existed in South Africa prior to the Acts that were implemented by the British.

The Slave Lodge was not only a renowned brothel, it was also the place where sick slaves were admitted and cared for. This practice existed since 1685 and continued on after the British took over control in 1806. Even though the trafficking of slaves overseas became illegal in 1807, the Cape still continued to be a landing dock for clandestine slaves. The government saw no quick end to this endeavour and merely attempted to ameliorate the conditions of any slave who was brought to the colony. One area in which life was improved was the stricter medical examinations for slaves. Dr Dunlop, the appointed physician to slaves at the Lodge, was assisted in the care of the sick by slave nurses.<sup>258</sup>

Venereal disease continued to be a pestilence within the colony and the Governor made it clear he intended to authorise expenditure for a hospital in which infected females could be treated. On May 18<sup>th</sup> 1814 infected women were taken up in the hospital and a staff surgeon was appointed to

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<sup>256</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971), 49.

<sup>257</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971), 93.

<sup>258</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971), 237.

attend to them.<sup>259</sup> Here again it can be seen that regulation and reform, as well as institutes to alleviate disease, were put in place prior to the existence of the Contagious Disease Acts in England, as well as any similar Acts in the colony.

By 1845, however, the extent of venereal disease in the colony was still at an alarming high and societies began to form in an attempt to remedy the situation. It was through the existence of these societies where the ideas of temperance, immoral behaviour and social evils were cemented. As with much of the venereal diseases history, the societies such as The City of Cape Town's Natal Abstinence Society were semi-militant and were established as a means to improve the condition of the garrison.<sup>260</sup>

A relevant piece of history comes to life in 1846 when a ship called 'Gentoo' made its way to Cape Town. The voyage and true history of the ship is elaborated on in EB Van Heyningen's article "Gentoo: a case of mistaken identity."<sup>261</sup> Where it came from, where it was heading and if it truly was wrecked along the A'gulhus coast is, in terms of this study, besides the point. What made this event in history relevant though were the women who were said to have been aboard the ship. Upon arrival in the Cape the women entered into various fields of employment but a later enquiry put together evidence that suggests that the women who came across to the colony in the Gentoo ship were mostly found to be infected with venereal disease. Their apparent behaviour as well, left no doubt as to how they came to be infected. As a result, the term "gentoo" is, too this day, associated with prostitutes, especially among the Cape Coloured community.<sup>262</sup>

A government funded attempt to diminish the widespread presence of venereal disease was brought up again, for the first time since 1814, in 1856. Legislation began being drawn up that would evolve to eventually become the basis upon which the 1868 Act would take over. The 1856 proclamation was enforced, by the Governor at that time, in any town or village where there was an infection outbreak. This proclamation differed dramatically though from the eventual Contagious Diseases Act in one specific area and that was in the way that it was not solely

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<sup>259</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971), 117.

<sup>260</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971), 261.

<sup>261</sup> Elizabeth van Heyningen, "'Gentoo' - a case of mistaken identity?" *Kronos* 22 (November 1995), 73-86.

<sup>262</sup> Percy Ward Laidler. & Michael Gelfand, *South Africa, Its Medical History: 1652 – 1898, A medical and social study*, (Cape Town: Struik, 1971), 279 and Elizabeth van Heyningen, "'Gentoo' - a case of mistaken identity?" *Kronos* 22 (November 1995), 75 – 77.

focused on venereal disease but rather covered a variety of contagious diseases, including small pox.<sup>263</sup>

It can thus be seen that although sparse there certainly was a history of venereal disease within the Cape colony prior to the 1860s when the wave of regulation and legislation hit the various colonies within the British Empire. It was however only after the 1860s when structured and well enforced solutions were introduced as a means to deal with the ever present problem of syphilis and gonorrhoea.

### 4.3. The Rise of Regulation

The 1860s saw the prominent rise of the venereal disease epidemic within most colonies of the Empire. News of the epidemic began to feature increasingly in correspondences between the naval and military stations and London. On the 9<sup>th</sup> of October 1866 a letter of concern was written by the Governor to Downing Street, London, about the spread of diseases in the Naval and Military stations. Suggestions were made for “the better prevention of Contagious Diseases.”<sup>264</sup> In the letter it was reported that at the time of writing more than 13% of the garrison was currently in hospital with a venereal disease and it was even more prevalent at the larger Military Stations throughout the Colony.<sup>265</sup> The letter asked for there to be provisions made for means to prevent the further spread, such as those which had been implemented in Britain. The Contagious Diseases Act was first implemented in 1864 but was met with disapproval and thus revised and then re-implemented on the 11<sup>th</sup> of June 1866. This revised Act was the one that would later be implemented at the Cape.

Less than a year later on the 15<sup>th</sup> of February another letter was written by the Colonial Secretary to the Office of the Colonial Medical Committee. This letter again, like the previous one, urged that an Act of sorts be introduced into the parliament analogues in its scope and object similar to the Act that the Imperial Parliament implemented in 1866 at certain Naval and Military stations in Britain. The medical board suggested that if an act were to be implemented that it should be

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<sup>263</sup> Percy Ward Laidler, “Medical Establishments and institutions at the Cape,” *SA tydskrif van geneeskunde*, (Februarie 24 1940), 71.

<sup>264</sup> Government House, *General Dispatches*, 9 October 1866, (GH 1/313 ref 13, p25 – 59), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>265</sup> Karen Jochelson, “Tracking down the Treponema: Patterns of Syphilis in South Africa, 1880 – 1940,” *University of Witwatersrand, Johannesburg, History Workshop*, (February, 1990), 3-4.

enforced in the principle sea-port and garrison towns only of the Colony such as Cape Town, Simonstown, Port Elizabeth, Grahamstown, King Williams Town and Fort Beaufort.

The letter contained a memorandum forwarded for the information of “His Excellence the Governor.”<sup>266</sup> It contained a compilation of letters written by various physicians throughout the Cape Town area commenting on the large amount of Venereal Disease present in the city as well as in the more suburban areas. The note to the Medical committee recommended that something needed to be done urgently, by authorising that checks be put in place to control the rampant disease which was not only killing inhabitants but also “saps [sic] the vital energies of generations still unborn...”<sup>267</sup> The letter also emphasised that although a “terrible social evil,”<sup>268</sup> prostitution was still very much a necessity. It was seen as a “safe guard to our phallic morals, while a protection to the chastity of our nations and origins, and believing that were it to be suppressed, seduction and greater crimes would follow.”<sup>269</sup> This is a pivotal piece of correspondence in the understanding of the Contagious Diseases Act’s history, as it supports the Victorian mindset that was the ultimate defender of these Acts. The Acts were generally supported as being a necessity due to the fact that prostitution in the colonies was seen as an essential part of the colonial presence in foreign countries. This was due to the general perception that men were unable to control their natural sexual urges, and thus in order to protect men’s ‘phallic morals’ the need for prostitution was instrumental in guarding the inevitable turn to homosexual behaviour or ignite fires of dormant sexual feelings in otherwise docile, moral women.

#### 4.3.1. The Act of the Prevention of Contagious Diseases

The urges and recommendations were finally met and on the 2<sup>nd</sup> of September 1868 Act No 25 was implemented. The Act was called the Contagious Diseases Prevention Act and was put in place “to prevent the Spread of Contagious Diseases at the Military and Naval Stations of this

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<sup>266</sup> MC, *Letters received: Secretary of the colonial medical committee to the colonial secretary*, 15 February 1867, (MC 29, Ref: 360 – 361), National Archives of South Africa, Cape Town Archives Repository (KAB)

<sup>267</sup> MC, *Letters received: Secretary of the colonial medical committee to the colonial secretary*, 15 February 1867, (MC 29, Ref: 360 – 361), National Archives of South Africa, Cape Town Archives Repository (KAB)

<sup>268</sup> MC, *Letters received: Secretary of the colonial medical committee to the colonial secretary*, 15 February 1867, (MC 29, Ref: 360 – 361), National Archives of South Africa, Cape Town Archives Repository (KAB)

<sup>269</sup> MC, *Letters received: Secretary of the colonial medical committee to the colonial secretary*, 15 February 1867, (MC 29, Ref: 360 – 361), National Archives of South Africa, Cape Town Archives Repository (KAB)

Colony.”<sup>270</sup> The Act was initially focused on implementation in five districts within the Colony, Cape Town, Simonstown, Port Elizabeth, Grahamstown and King Williams Town. Although each of these districts had naval and/or military stations and the Act was stated as being especially for the prevention at these stations in the colony, it was actually the women in those areas that were targeted through the Act and not the stations, sailors or soldiers themselves. Women, in particular prostitutes, were the sole focus of the Act. This can be seen in the way that the Act was worded. From section V onwards the Act focuses on those liable to inspection, how they would be summoned for inspection, the penalty for not attending an examination and so forth. The Act, consisting of 21 sections, can clearly be read as holding women solely responsible for the spread of venereal diseases.<sup>271</sup> Any woman who was known, or even just reputed, as being a ‘common prostitute’ could be found liable for inspection. If any woman, having been informed she was to attend an examination, did not do so, she would be arrested and sentenced to five days on a sparse diet. If any woman was found to be infected upon inspection, she would be sent to the established hospital and detained there for treatment. These women would then be issued a certificate which possessed various bits of information, among which were the dates of the next inspection. This is much like the identification document found in Singapore after substitution became a problem. Like in Singapore, there was a penalty system in place for any woman who was found to be falsely using a certificate which did not belong to her.<sup>272</sup>

In the last clause of the Act it is stated clearly that the Act was not a form of legislation to render prostitution legal, nor did it exempt any persons engaging in or practicing prostitution from the legal restrictions of the Colony.<sup>273</sup> Even though this was included in the Act, it was still received with a great deal of critique which focused on this area in particular.<sup>274</sup> Analysis of the critique concerning the 1868 Act will be discussed in detail later when this study looks at the decline in favour towards the Act. However, it is important to note that, it was felt the Act was not clear in many aspects, such as its definition of a “common prostitute” and also that it encouraged vice and

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<sup>270</sup> Cape of Good Hope Colony: Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1864 – 1868, (1868), 538.

<sup>271</sup> Cape of Good Hope Colony: Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1864 – 1868, (1868), 538 – 543.

<sup>272</sup> Cape of Good Hope Colony: Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1864 – 1868, (1868), 541.

<sup>273</sup> Cape of Good Hope Colony: Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1864 – 1868, (1868), 543.

<sup>274</sup> David Tennant, *Appeal to the Public by the Association for the Repeal of the Contagious Diseases Act 1871*. Cape Town National Library: SABP 89 (4).

immortality among the population.<sup>275</sup> The Act was also criticised as targeting women, whether married, respectable or not, any woman could be found guilty of prostitution and be ordered to undergo an examination. Once a woman was sentenced to an examination, her name was placed on a register and she was considered a ‘fallen women.’ This was a demeaning category that was very difficult and tedious to get away from and women could seldom redeem themselves after having turned to prostitution. This was especially true for the situation of prostitutes in the Cape Colony. If a woman was wrongly accused of being a common prostitute and thus placed on the register, rendering her good name futile, in England, there would be multiple other large towns and cities that she could escape to, with cheap accommodation and often work could be found. However at the Cape there was nowhere else for women to go, especially those who had made their way to the Cape from Europe.<sup>276</sup>

#### 4.4. Regulation in Action

Although the Act was only fully committed to the statutes during the third session of parliament in 1868, the data to support the Act was already being garnered and was then used to generate a report prior to the implementation of the Act, as well as for one month following the Acts implementation. From March until October 1868 it was reported that the average number of prostitutes admitted onto the register was 52.5 per month. In October of 1868 a rather detailed register was put together of all the admissions in that month. This is however the only register during the first Act, No 25 of 1868, that can be found with this amount of detail in it. Even though the average was reported from March of 1868, since the Act was only passed in September of that year the only full record to be found was for October 1868. Although the statistics for previous months must have come from standard documentations in the various hospitals, since the number on the register per last return is empty it does seem to point out that even though other databases had been looked at to gain the information this was the first record of its kind under the Act. The register sketches a comprehensive picture of the women admitted in accordance to the Contagious Diseases Act of 1868.<sup>277</sup>

<sup>275</sup> Solomon, S.: *The Contagious Disease Act: Its operation at the Cape of Good Hope, Four Letters to the Editors of the "Cape Argus"*, (Cape Town, 1897), 15.

<sup>276</sup> Solomon, S.: *The Contagious Disease Act: Its operation at the Cape of Good Hope, Four Letters to the Editors of the "Cape Argus"*, (Cape Town, 1897), 15.

<sup>277</sup> Colonial Office, *Letters received: Immigration, medical, King Williams Town Hospital, Robben Island and Somerset Hospital*, 1868, (CO 888), National Archives of South Africa, Cape Town Archives Repository (KAB).

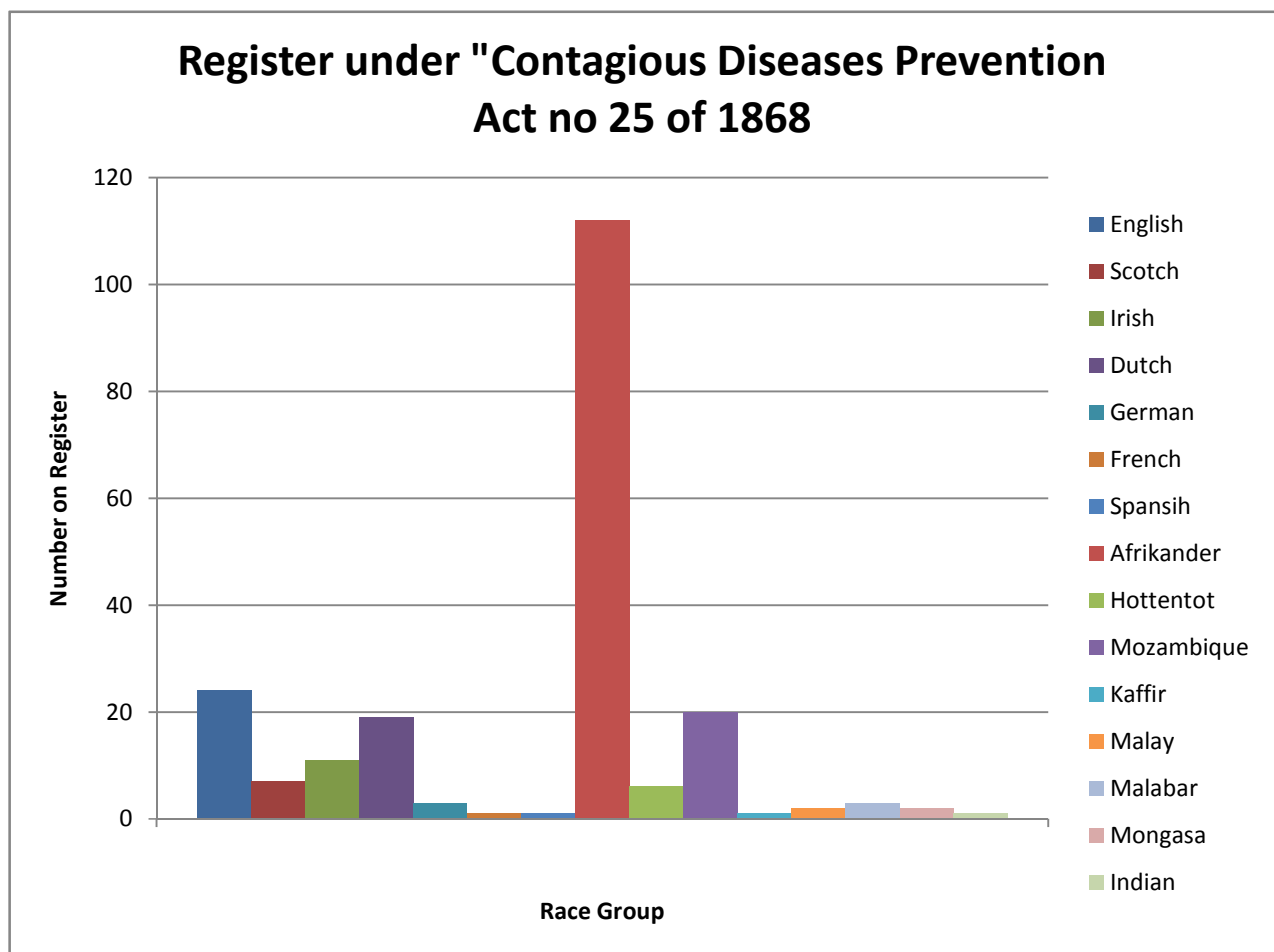


Number on register per last return	-
New cases during the month	213
Total Registered	213
Relieved, Section XVI	8
Left District	-
Died	-
Remaining on the register last day of the Month	205
Certified	130
Sent to the Hospital	74
Number of First Inspections	204
No of Notices Issued by Police	197
Attended	193
Refused	4

Table 4.1: Register under the Contagious Diseases Prevention Act No. 25 of 1868 for the month 9th – 31<sup>st</sup> October 1868.

The register was recorded with as much detail as possible, a number of categories such as race, age, occupation; parental situation and birth location were added for additional documentation purposes. The overall amount of females that were admitted onto the register for the month of October was 213. Of these 213, 197 were admitted by police and were given notices issued under the Act for them to be inspected at the Lock Hospital for disease, however only 193 went to the hospital as four of them refused to undergo inspection. Of the 213 on the register 74 were found to have a contagious disease and were taken up in the hospital for treatment. The register also noted which race group each female came from.<sup>278</sup> The racial aspect of the Contagious Diseases Acts has brought to light an interesting discussion concerning the exact correlation between race and the role of the prostitute. Race, the classification process of racial groups within the confines of the Contagious Diseases Acts and the ideological mind set concerning race, specifically in the South African context will be addressed in the following chapter.

<sup>278</sup> Colonial Office, *Letters received: Immigration, medical, King Williams Town Hospital, Robben Island and Somerset Hospital*, 1868, (CO 888), National Archives of South Africa, Cape Town Archives Repository (KAB).



Graph 4.1: The various race groups found on the Register under the “Contagious Diseases Prevention Act no 25 of 1868.”

The whereabouts of the parents of the women placed on the register was also noted down. The information is however slightly ambiguous. The six categories identified were: both alive, both dead, mother alive, father alive, no account of, and living with parents.<sup>279</sup> This information can thus get confusing. Are the ones living with their parents, living with both parents or is one parent dead and thus would they fall under two categories? Due to the ambiguous nature of the records the information provided does not allow for a thorough examination to be done as to the family background of the prostitute.

<sup>279</sup> Colonial Office, *Letters received: Immigration, medical, King Williams Town Hospital, Robben Island and Somerset Hospital*, 1868, (CO 888), National Archives of South Africa, Cape Town Archives Repository (KAB).

The register also highlights two key issues that came to light through the implementation of the Acts. Although these issues were mostly focused on in the latter years of the Contagious Diseases Acts existence, it can be seen from this very first report that the problems already started here. The first issue is that of the ages of the prostitutes and secondly the issue regarding the business of prostitution and the resulting trafficking of women around the world.

#### **4.4.1. The Age Debate**

The report shows the ages of the various prostitutes, showing the age at which the woman was admitted to hospital, as well as the age at which the woman commenced work as a prostitute. Neither the 1868 Act, nor the 1885 Act, specified the age at which a girl could be classified as a prostitute. This definition can be assumed as being left out due to the stipulation in other reports and legislation, such as those regarding the age of consent. The attention, however, which the Contagious Diseases Acts placed on the women, and consensual sex, would evolve into a worldwide subject of concern. Although the age debate only truly took flight in the 1880s, it can be seen from the records that this problem was already in existence in the 1860s.

The register of October 1868 casts an interesting shadow on the different age groups. Out of the 213 girls placed on the register 76 of them were aged 20. There were 66 under the age of 20; the youngest two were 15 years old. The oldest woman placed on the register that month was aged 48, however only 16 women fell in the age group 30 – 40 years. The most frequent age group for the women placed on the register was between 20 and 29. There was also a category on the side which located the age at which the women commenced the work as a prostitute. The youngest two claimed to have started at the age of 12 years old.<sup>280</sup> This is a young age in the modern mind set however it must be taken into account that the legal age for girls in England in 1864 was 12. Thus a young girl of 12 was legally capable of ‘giving consent and yielding her person.’ In England however, after much campaigning the legal age of consent was raised to 16 in 1885.<sup>281</sup> In the Cape, the age of consent was far lower. The precise age of consent seems to vary between documentations but what can be noted was that the age of consent prior to being changed in 1892 was a mere 10 years. In 1892 it was changed to approximately 13 years of age. Whether 13 was the general age considered for consent is unclear as one pamphlet published by the Women’s

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<sup>280</sup> Colonial Office, *Letters received: Immigration, medical, King Williams Town Hospital, Robben Island and Somerset Hospital*, 1868, (CO 888), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>281</sup> Ann Stafford, *The Age of Consent*, (London: Hodder and Stoughton, 1964).

Christian Temperance Union<sup>282</sup> stated that the legal age was 13, however in an article published in 1911 entitled “Some points concerning the legal status of Women in the Province of the Cape of Good Hope” which was written by M.E. de Villiers states that the age of purity differed in the case of men and women, being 14 years for the former and 12 for the latter.<sup>283</sup> The age debate caused many problems throughout the various stages of the implementation of the Acts, especially the Act implemented in 1885. None of the Acts went into detail regarding the age at which a young girl could legally be regarded too young to be considered a prostitute. This problem was highlighted in a case involving two young girls in 1899 which drew international attention.<sup>284</sup>

On July 4<sup>th</sup> 1899 a case was brought before the Magistrate, which had been reported in the public press. It stated that two girls, reported to have been aged 12 and 14 had undergone examination several times at the Lock Hospital. This was later revealed as being a misunderstanding in publication as the elder of the two who presented herself for examination was between 17 and 18 years of age and the Magistrate was clearly misled as to the true age of the girl. The younger girl presented herself but was refused by the medical officer due to her young age.<sup>285</sup>

Even though the facts of the case were misleading the details still found its way to London and the House of Commons. Correspondence indicated that the Magistrate struggled to deal with the case due to the misgivings and vague details of the Contagious Diseases Act. In one correspondence the Magistrate suggested that the criminal prosecutions be passed against any such person who admitted children for examination. However the problem that the Magistrate had encountered was that the definition of prostitution and the specification of age were never made clear in the Contagious Diseases Act and thus he was unsure that such suggestion of prosecution could be instituted.<sup>286</sup>

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<sup>282</sup> Julia F.Solly, *The Legal Side of the Purity Question, 1902. (Women's Christian Temperance Union)*. Cape Town National library, SABP 186 (6).

<sup>283</sup> M.E.De Villiers, *Some points concerning the legal status of Women in the Province of the Cape of Good Hope, 1911. (Women's Enfranchisement League, Cape of Good Hope)*. Cape Town National Library: SABP 186 (11).

<sup>284</sup> Colonial Office, *Administrative and Convict service, correspondence concerning article “A Cape Town Case” in the Cape Times*, 1899, (CO 2294, ref: Folio 1264), National Archives of South Africa, Cape Town Archives Repository (KAB)

<sup>285</sup> Colonial Office, *Administrative and Convict service, correspondence concerning article “A Cape Town Case” in the Cape Times*, 1899, (CO 2294, ref: Folio 1264), National Archives of South Africa, Cape Town Archives Repository (KAB)

<sup>286</sup> Colonial Office, *Administrative and Convict service, correspondence concerning article “A Cape Town Case” in the Cape Times*, 1899, (CO 2294, ref: Folio 1264), National Archives of South Africa, Cape Town Archives Repository (KAB)

The two girls mentioned in the articles were Marian Lee and Sannie Carlson or Sennie or Sanna, as all three names were used throughout the report. The real facts of the cases are as follows. On the 15<sup>th</sup> of May Marian Lee presented herself at the Lock Hospital and stated that she wished to be put on the register. She was told that she was too young. She, however, stated that she had been with an artillery man and that she “had gotten something.”<sup>287</sup> Thus she, subject to her own consent, was examined, upon which she was found to be free of any venereal disease as well as being a virgin. She was cautioned by both the inspector and the matron of the hospital and sent away. Sannie Carlson presented herself on the 25<sup>th</sup> of April. She was the fourth sister of a family not unfamiliar to the register of prostitutes. Seven weeks prior to the Lock Hospital incident Sannie’s mother passed away, with her passing she made it known that Sannie was approximately 16 years of age. The medical examiner, however, was led to believe her age to be between 17 and 18. It later can be seen that even though she was 16 instead of the 17 or 18 years of age the medical examiner believed her to be, Sannie was in no way 14 years of age as the Magistrate was led to believe. This however was of little importance once the case of prostitution and age had caught international attention and sparked debates on the right age that women could be classified as prostitutes.

In a newspaper article written in response to the events of the previous case the author, although only lightly touching on the incident, is very vocal about his opinion of the regulations at that time. The article was entitled ‘Children of the State.’<sup>288</sup> In order to fully understand and comprehend the voice of the people the entire article is as follows:

“Many people must have been set thinking by the police court disclosure that girls of 12 and 14 can be on the streets, and can be regular attendants of the office of the medical officer under the Contagious Diseases Act, without exacting any special remark or becoming the subjects of any report either to the police or to the various agencies for looking after human wreckage. The contagious Diseases Acts is not, unfortunately, a matter which lends itself to newspaper discussion, save of a very perfunctory kind. We say unfortunately because without such discussion it is difficult to bring the moral – or let

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<sup>287</sup> Colonial Office, *Administrative and Convict service, correspondence concerning article “A Cape Town Case” in the Cape Times*, 1899, (CO 2294, ref: Folio 1264), National Archives of South Africa, Cape Town Archives Repository (KAB)

<sup>288</sup> Colonial Office, *Administrative and Convict service, correspondence concerning article “A Cape Town Case” in the Cape Times*, 1899, (CO 2294, ref: Folio 1264), National Archives of South Africa, Cape Town Archives Repository (KAB)

us say simply human – sense of community to bear upon difficult questions; and while legislation guided by moral sense only is likely to be faddist... in the case of the state machinery set up for the partial sanitation, it is, to speak plainly, disgusting and degrading to everyone concerned with it. Its callous, prudential man-of-the-worldism represents the cynic and the beast that is in all of us, even in legislators.; for the same state that tickets and drags up and inspects these two miserable children, quite as a matter of course, allows any male frequenter of the same haunts to roam untrammelled and do his worst, though he may be perfectly well known to those whom the state sets to look after this repulsive business, to be a danger no less than these women to the public health. So much for the law; of the cynical coolness begotten by administration of it let the facts on which the magistrate so severely commented speak for themselves. It is not exactly a voluptuous subject to consider nor even a tolerable one, but it is worth considering, when something as now, occurs to force it on thoughtful peoples notice.”<sup>289</sup>

Even though the incident was brought to the attention of the Magistrate with false information the case proved vital in the way in which attention was brought to the age concern in the Cape Colony. The case was met with much upheaval in England as the fight to raise the age of consent was very much underway there at the time, having been brought to everyone’s attention through debates and meetings held by women’s groups, such as the Tempest League, and in the publications of these movements, such as “The Shield.”<sup>290</sup> The problems surrounding age was not isolated to a few years in history though. The Contagious Diseases Act merely brought forward an existing problem and shed light on something that was already there. The problem was not so easily solvable. This can be seen by the fact that papers written by women in 1902 and 1909 who were still concerned with the low ages of consent. Julia Solly, a prominent member among the repeal movements wrote and read a letter for the Women’s Christian Temperance Union in 1902, in which she addressed the legal side of the purity question. Her main area of concern was focused on the women gaining the franchise in the Colony and one area in which she emphasised the need for women’s input was in the protection of children. When the request was put in to raise the age of consent from ten to thirteen in 1892 by the then Attorney-general Sir James Rose-Innes, it was “vehemently opposed by a large minority of the members of Parliament, who are,

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<sup>289</sup> Colonial Office, *Administrative and Convict service, correspondence concerning article “A Cape Town Case” in the Cape Times*, 1899, (CO 2294, ref: Folio 1264), National Archives of South Africa, Cape Town Archives Repository (KAB)

<sup>290</sup> The Shield was the official publication for the repeal movement led by Josephine Butler

notwithstanding, most of them decent, respectable men, husbands and fathers.”<sup>291</sup> Mary Brown, a member of the Women’s Enfranchisement League, again addressed the issue of age in 1909 when she spoke of the fact that the Transvaal raised its age of consent to 16 in 1908 and in countries such as France and Belgium the age of consent stood at 21. The Cape Colony’s age of consent was still 13.<sup>292</sup>

#### 4.4.2. The Trafficking of Women

Much like the previous issue the problem of trafficking women was not created by the Contagious Diseases Act, but rather one that the Acts brought awareness to. The trafficking of women for the purpose of prostitution was certainly not a new occurrence, and is still a concerning matter which has continued well into today’s society.

The women, as will be seen in a few case studies, were brought from other countries and travelled readily under the false pretences of someone’s fiancé or an older woman’s companion. They would then be placed in a brothel and made to work for their keep as prostitutes. Brothel keepers were renowned as being cruel and malevolent towards the girls and escape from such circumstances, especially in a foreign country, was often impossible. Typically husband and wife teams were the most successful, where one would play the pimp or souteneur and the other the brothel madam. Family run businesses were also successful, where parents would teach their children the ways of the business. Certain characteristics such as mobility, readiness to diversify and ruthless professionalism were needed for these sexual entrepreneurs to make their business thrive.<sup>293</sup>

In other colonies in the British Empire there was a clear pattern of Asian influx, with the majority of the prostitutes on the records registering as either Chinese or Japanese. The records in the Cape Colony, however, do not seem to follow this trend, even in the latter boom years of diamonds and gold.<sup>294</sup> The record shows that, although there was a clear trend of European women actively partaking in the calling of prostitution, the majority of the girls were from a race identified as

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<sup>291</sup> Julia F.Solly, *The Legal Side of the Purity Question*, 1902. (Women’s Christian Temperance Union). Cape Town National library, SABP 186 (6), 2.

<sup>292</sup> Mary Brown, *Would the Women’s Vote effect the Social?* 1909. Cape Town National Library: SABP 151 (30), 2.

<sup>293</sup> Charles Van Onselen, *The Fox and the Flies: the world of Joseph Silver, racketeer and psychopath* (London: Jonathan Cape, 2007)

<sup>294</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 146.



“Afrikaner.”<sup>295</sup> The conclusion can be drawn that this group is what is now better known as the coloured community.<sup>296</sup> This group makes up 112 of the prostitutes on the register, the second largest group only coming in at 24 which were the English prostitutes. Although this shows what race group they were placed in, the actual place of birth may have been different. For example 133 of the women on the register were born in Cape Town and even though none fell under a ‘Canadian’ category, even though 11 were stated as being born in Canada.<sup>297</sup>

The register shows that although many of the women who partook in prostitution came from the surrounding areas, many of them travelled far distances to get to the Cape. Even though they may not have started out with the idea of travelling to the Cape Colony to join a brothel and make a living by selling their bodies many of them arrived under difficult circumstances or due to trafficking. Thus many of the women would have arrived here under false pretences and were forced into this type of work by those they had trusted. The trafficking of women into the colony for the sole purpose of prostitution was not countered by the Act, in fact, as the years wore on, and the Act was repealed and the revised addition implemented later in 1885, the cases of trafficking seemed only to increase and gain more attention than previously. A number of cases were brought to the attention of the magistrate in the 1892 and 1893. One case in particular, recorded as late as 1901, seemed to gain a fair amount of attention as the documentation seems to go into great detail, more so than with any previous abduction cases.

The first case, recorded in 1892, was not a regular abduction case. On the 7<sup>th</sup> May 1892 a coachman, Mogamat Saban alias Sahaar unlawfully took Sabea Ederies, who was unmarried and under the age of 21 from her parents for the purpose of having carnal connections.<sup>298</sup> Sabea was later placed on the records as a prostitute and her name comes up again in the records as one of the prostitutes involved in the Lock hospital riots.<sup>299</sup> The parties involved were from the Colony, however it does emphasise the fact that often, once the girls were exposed to the lifestyle, it was difficult for them to escape from it.

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<sup>295</sup> Colonial Office, *Letters received: Immigration, medical, King Williams Town Hospital, Robben Island and Somerset Hospital*, 1868, (CO 888), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>296</sup> Elizabeth van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 173.

<sup>297</sup> Colonial Office, *Letters received: Immigration, medical, King Williams Town Hospital, Robben Island and Somerset Hospital*, 1868, (CO 888), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>298</sup> Attorney General of Cape Colony, *preliminary examinations: Mogamat Saban alias Sahaar*, 7 May 1892, (AG 2943, ref: 13), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>299</sup> Attorney General of Cape Colony, *preliminary examinations: Elizabeth Aberson and fourteen others*, 23 January 1893, (AG 2956, ref: 20), National Archives of South Africa, Cape Town Archives Repository (KAB).

A second case, recorded in 1893, is a rather interesting one. Fanny Kohlar, whose name appears a number of times on the register at the Lock Hospital, reported to having been abducted and bought to the Cape under false pretences.<sup>300</sup> The report was made against Annie Marshall, also known as Hannah Alexander, was accused of knowingly aiding and abetting in the procurement of Fanny Kohlar for immoral purposes. According to Fanny Kohler she knew the accused, Hannah Alexander, and had met her in her home town of Odessa, Russia. She met with Hannah and was offered work as a tailor, a profession she was skilled in. It seems, like many girls during that time, Fanny Kohler was an easy and gullible target for such crimes as she was told not to ask her father whether she could work in Warsaw when such a job was offered to her and instead proceeded to leave her home town without giving her father any idea of where she was going.

The girl naively placed a large amount of trust in the person that had ‘abducted’ her under the false pretences of work, to such an extent that she followed this women from Warsaw to London on the further promise of work at a tailor in London, however when she and Hannah arrived in London no such work was provided and instead they boarded a ship and made their way to Cape Town. Here Fanny was put up in a brothel, a house on the corner of Longmarket Street and Canon Street and was promised work as a tailor yet again. However once there Fanny was beaten by Hannah and given alcohol, then under the influence she proceeded to “have connections” with men. She never received money for these acts and all income received was taken by Hannah Alexander. The girl finally ended up in the Lock Hospital and received help from a Dolly Smith and after bringing the crime to the Resident Magistrate she proceeded to live at the Salvation Army. Annie Marshal, though at the time of the crime she was better known as Hannah Alexander, was charged with the crime of contravening Section 6 of Act 44 of 1898 as well as section 3 of Act 25 of 1893.<sup>301</sup>

A number of years later another such case of abduction was reported regarding two sisters who had been brought to the Colony under false pretences. This time however it was not under the pretence of work, but marriage. The two sisters, Antoinette and Julienne Jacqmin, born in Belgium, were procured under false pretences to enter into a life of prostitution by Joseph Davis and his partner Marguerite de Theiss. Antoinette, the older of the two sisters, went to work in

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<sup>300</sup> Attorney General of Cape Colony, *preliminary examinations: Annie Marshall alias Hannah Alexander*, 10 May 1902, (AG 3114, ref: 3777), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>301</sup> Attorney General of Cape Colony, *preliminary examinations: Annie Marshall alias Hannah Alexander*, 10 May 1902, (AG 3114, ref: 3777), National Archives of South Africa, Cape Town Archives Repository (KAB).

Paris. It was during her time in Paris that she became acquainted with a man named Joseph Davis. In the early months of 1901 Davis accompanied Antoinette to her family home in Belgium where he proceeded to ask her mother for Antoinette's hand in marriage. The girl's father was not home at this time and could not consent. Davis returned to Paris and a few days later, Antoinette, accompanied this time by her younger sister Julienne, joined him. They stayed in his house, with the girls sleeping in one room and him in another. After only two days in Paris Davis informed them of urgent business he had to attend to in London and told them that they were to accompany him to London. Julienne at this point asked to return home, to Belgium, but was told that she could not travel alone and she did not have any money to make the journey home on her own anyway. Thus both sisters continued on to London with Davis.

Once they had arrived in London, Davis proceeded to tell them that he now needed to make the trip to South Africa as he had a house there that needed his immediate attention. Only Antoinette was informed of this trip to South Africa and she consented for both her and her sister to go along, their parents however were not informed of the girls' whereabouts. Julienne, never having been to London, was under the impression that the boat was part of a short ferry ride. When she came to realise that they were sailing across the ocean she demanded to know where she was being taken and was told that the journey would take seventeen days. Antoinette was told that she would need to work when she arrived in South Africa to help out with the money Davis had lost along the way and Antoinette was under the impression she was to be his wife once they were to land in South Africa. Julienne, upon hearing the news, proceeded to cry and demanded to be taken home. Davis promised, however, to teach her how to play the piano and buy her lessons to help her speak English. He also promised to send money to her mother in Belgium.<sup>302</sup>

Once they arrived in South Africa they were met by Davis' real mistress, Marguerite de Theiss, who met them at the ship and took them back to the house Davis kept. The girls were never informed about the type of work they were to do there. Later the afternoon a young gentleman called at the house and proceeded to ask for one of the new girls. Davis informed Antoinette that she was to sleep with this man. Davis never forced her to do so, but she proceeded to have connections with the gentleman caller and afterwards adopted the attitude of "as I had begun so I

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<sup>302</sup> Attorney General of Cape Colony, *preliminary examinations: Joseph Davis & Marguerite de Theiss*, 11 November 1901, (AG 3118, ref: 43 and 44), National Archives of South Africa, Cape Town Archives Repository (KAB).

had to go on.”<sup>303</sup> All the money Antoinette received for her connections she gave over to either Davis or Marguerite. When she asked Davis to buy her things or to send money to her mother Davis declined to do so and told her to go away. When she persisted one day he started to beat her, she stated though that she stayed on at the house because she had no money, knew no one who she could turn to for help and under it all she stayed because of the affection she had for Davis.<sup>304</sup>

Julienne however was not such an easy target. When she understood what was being expected from her she cried and told them she would never do that even if it meant she could not stay with them. Davis let her alone for a few days and even promised to send her home, however he never stipulated when he would do so. She continued to hide in her rooms and would not let any men near her. One evening however, two weeks after she had arrived, Davis came up to her room while she was sleeping and got into bed with her. When she woke to find him there he threatened to “open her head”<sup>305</sup>, choke her and kill her if she did not sleep with him. He then had sex with her by force and had she tried to stop him he would have presumably killed her. The next morning she told her sister what had happened and told her she could not live there any longer. The two sisters then left the house and was found by the Salvation Army helpers and brought to the Lock Hospital for treatment and recovery. The Colonial Secretary contacted the Belgium consulate and they organised to have her taken back home to Belgium. Her sister, however, due to her willingness to partake in that lifestyle was not granted allowance to return home and had to stay in the Cape.<sup>306</sup>

#### 4.5. The Decline of Regulation

The Act that was introduced into the statutes in 1868 was, however, promulgated during a time of much conflict about this very Act in Britain. Although the Act did not generate as much attention in the Colony as it did at home and in various other colonies, the Legislative Council of the Cape

<sup>303</sup> Attorney General of Cape Colony, *preliminary examinations: Joseph Davis & Marguerite de Theiss*, 11 November 1901, (AG 3118, ref: 43 and 44), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>304</sup> Attorney General of Cape Colony, *preliminary examinations: Joseph Davis & Marguerite de Theiss*, 11 November 1901, (AG 3118, ref: 43 and 44), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>305</sup> Attorney General of Cape Colony, *preliminary examinations: Joseph Davis & Marguerite de Theiss*, 11 November 1901, (AG 3118, ref: 43 and 44), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>306</sup> Attorney General of Cape Colony, *preliminary examinations: Joseph Davis & Marguerite de Theiss*, 11 November 1901, (AG 3118, ref: 43 and 44), National Archives of South Africa, Cape Town Archives Repository (KAB).

of Good Hope requested a formal report in 1869, set up by a select committee regarding the proceedings of the Act since implementation the previous year. The evidence of this report was presented in August of 1869. The report however was not the only record against the Acts. A series of letters was written to the editors of the *Cape Argus* and later published by the writer, Saul Solomon, in 1897.<sup>307</sup> The series contained four letters all addressing the issue of the Contagious Diseases Act. These issues included aspects such as the ill treatment of women and the fact that women were found to be the target group for the cause of the venereal disease outbreak and men had no role to play in its existence or attempt to regulate it. One key issue which Saul Solomon points out a number of times was the way in which the Act was made law. This was also an issue that was brought in the select committee report. The Act was introduced at the same time at which the similar Act in England was in the midst of heavy critique.

This raised questions as to the amount of information the officials had concerning the Bill that they were passing. Another area of concern that was addressed in the letters as well as in the select committee findings was the money being spent of the facilitation of the Act. The general opposing feeling was that unnecessary funds were being allocated to build hospitals and employ officials and doctors for an unworthy cause. Another concern that was raised was the corruption of the officials working the act and the way in which this affected women negatively. Any official, it was stated, could be bought into writing out a summons even if the woman being summoned was married, respectable and had to clear evidence of partaking in prostitution. This was also linked to the high level of prostitution which was apparently, through record keeping, found in the Cape. Solomon argues that this was possibly a result of the fact that any woman could be targeted, and women present in certain areas would automatically be classified as a common prostitute without further investigation. Something that may not have occurred in countries where there were fewer prostitutes on the register.

The overarching and universal complaint of morality and vice regarding the Contagious Disease Act was also brought up a number of times in both Solomon's letters as well as the report. It was felt that the Act merely facilitated the existence of vice and the system was a government funded establishment for the manufacturing of "common prostitutes." This was in no way a new or uniquely Cape Colonial argument and was influenced greatly by the women's movements in England. Much of the correspondence, debates and articles published in the years leading up to

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<sup>307</sup> Solomon, S.: *The Contagious Disease Act: Its operation at the Cape of Good Hope, Four Letters to the Editors of the "Cape Argus"*, (Cape Town, 1897)

the repeal of the Act had one fundamental argument; that the Act was the vehicle for immorality and vice within the Colonies. In an official appeal to the public by the Association for the Repeal of the Contagious Diseases Act, written in 1871 by a Mr Tennent,<sup>308</sup> it was summarised as being an Act that recognises prostitution as being an indispensable part of the structure of society. It was also blamed as nullifying the important principles which, up until then, had safe guarded the freedom, honour and personal safety of the British subjects in the colony.

#### **4.5.1. An Act to Repeal the Act of 1868**

On the 31<sup>st</sup> of July 1872 the Contagious Diseases Prevention Act was officially repealed by order of Act No. 2 – 1872. “An Act to Repeal Act No. 25, 1868.”<sup>309</sup> This meant that the Act of 1868 was no longer officially implemented and thus all associations with the Act was regarded as being nullified.

Even though the Act was repealed under conditions stemming from both British influences as well as debates from within the colony, the repeal was not welcomed by all parties. Although many petitioned against the Acts that were implemented in 1868, not only in the Cape Colony but also abroad, the Acts had also been greeted with much relief and satisfaction that something was being done to alleviate the syphilitic burden that had created such a heavy shadow over much of the Colony. When Act no 24 was repealed in 1872; it was met with much discontent. After a few years with no concrete regulation the unrest and dissatisfaction with the re-growth of the disease became more obvious and petitions, much like ones that been drawn up by Burghersdorp and Frazerburg, were brought to the attention of the governor’s office urging that the Act be reintroduced.<sup>310</sup> Towards the beginning of the 1880s a number of correspondences shed light on the fact that although the previous Act had not been deemed a successful one there was still a definite need for a form of control over the venereal disease problem.

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<sup>308</sup> David Tennant, *Appeal to the Public by the Association for the Repeal of the Contagious Diseases Act, 1871*. Cape Town National Library: SABP 89 (4).

<sup>309</sup> Cape of Good Hope Colony: *Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1869 – 1873*, (1873), 149.

<sup>310</sup> Cape Colony Publications, *The petition of the inhabitants of the town and district of Fraserburg*, 22 May 1878, (CCP 1/2/1/38, ref: 14 – ’78), National Archives of South Africa, Cape Town Archives Repository (KAB).

#### 4.6. The Colony without Regulation

On the 19<sup>th</sup> of January 1880 a letter was sent to the Commandant, Cape Town from the Major Surgeon at the Station Hospital in Cape Town.<sup>311</sup> The letter included previous correspondence, with supporting statistics, between the Colonial and the Imperial Military Authorities with regards to the continued prevalence of Venereal Disease in Cape Town. This was written in the timeframe between the two Contagious Diseases Acts, when no regulation was currently enacted in the Colony. The letter was written in order to make the civil authorities aware of the necessity for the establishment of a Lock Hospital, in order to mitigate the prevalence of Venereal Disease, and the resulting serious implications for the soldiers in Cape Town. The attached correspondence in the letter to the Commandant included a letter written on the 26<sup>th</sup> of January by the Major Military Secretary Mr H. Hallam Parr to the Under Colonial Secretary at the Colonial Office in which the number of admissions into the Military Hospital for soldiers suffering from Venereal Disease between January 1879 and January 1880.<sup>312</sup>

Table 4.2: Admissions for January 1879 – January 1880			
January 1879	14	362	3.867
February	4	190	2.105
March	0	178	0.000
April	5	246	2.632
May	2	218	0.963
June	3	187	1.604
July	0	208	0.000
August	3	385	0.779
September	8	551	1.470
October	3	911	0.329
November	4	1,046	0.382

<sup>311</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>312</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).



December	15	1,018	1.473
<b><u>Total For Year</u></b>	<b><u>61</u></b>		
January 1880	31	987	3.140

Table 4.2: Admissions for January 1879 – January 1880

The letter also contained the reply to the above statistics which came on the 30<sup>th</sup> of January from the Secretary, Mr Philip Landsberg which stated that the medical board would be pleased to see the establishment of a Lock Hospital for the relief of the prostitutes suffering from Venereal Diseases but that the amount of disease among the soldiers in Cape Town was not enough to deem immediate action.<sup>313</sup>

On the 23<sup>rd</sup> of April 1880 another series of letters were addressed to the Ministers. The subject of these letters were clearly entitled: “Prevalence of Venereal Disease in Cape Town and Simonstown.”<sup>314</sup> The first letter was from a Mr H.B.E. Frere and in the letter he expressed his genuine anxiety over the serious increase of Venereal Disease in both Cape Town and Simonstown and urged that the matter be taken under discussion with great consideration. The letter further states that it seemed to be the general opinion that, without legislation, the problem could not be effectually dealt with. However some good could be done by the Magistrate of Cape Town if they were to caution the police to be alert and arrest any woman who may come under suspicion of the Vagrant Act. This was especially emphasised as it was this “class which is said to do most mischief in spreading the disease.”<sup>315</sup>

With the implementation of the previous Contagious Diseases Act in the Cape Colony, as well as with the working of the Contagious Diseases Act in the United Kingdom, much experience had been gained as to what was, and what was not compatible with, and conducive to public decency and morality. Through this experience, Frere explained, ample evidence had been found to show

<sup>313</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – ’81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>314</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – ’81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>315</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – ’81), National Archives of South Africa, Cape Town Archives Repository (KAB).

that, not only was it possible to virtually eradicate the disease in its entirety, but that through legislation, like the Contagious Diseases Act, it is possible to lessen the amount of prostitution by reclaiming ‘fallen women’ and deterring others from entering the practice.<sup>316</sup> The letter also suggested that if all these beneficial aspects of the Acts were made publicly known then it could possibly help to lessen the prejudices against the legislative.

The above mentioned letter was part of a series of correspondence which stretched from April 1880 until January 1881. A series of reports, starting in April, formed part of the extensive correspondence which attempted to make it clear to the Commandant that the prevalence of Venereal Disease among the garrison was indeed of a disquieting nature. The first report was from the Station Hospital in Cape Town on the 16<sup>th</sup> of April and in it was a table that showed the number of admissions into the hospital and drew up a comparison between those who were admitted due to Venereal Disease infections and those that were admitted under “other diseases.”<sup>317</sup> The report indicates that the incidences of Venereal Disease among the garrison were more striking than that which was reported in January. These reports were brought forth for the attention of the Commandant as a means to show the necessity for legislative interference.

Table 4.3: No. of Admission from Venereal Diseases, Compared to the other Diseases at Station Hospital Cape Town (20<sup>th</sup> Feb – 9 April 1880).<sup>318</sup>

<u>Week Ending</u> <u>Friday</u>	<u>Average</u> <u>Strength</u> <u>of</u> <u>Garrison</u>	<u>Admissions with</u> <u>Venereal Disease</u>	<u>Admissions with</u> <u>other diseases</u>	<u>Total Admissions for</u> <u>Week</u>
February 20 <sup>th</sup>	930	16	9	25
February 27 <sup>th</sup>		11	10	21
March 5 <sup>th</sup>		11	7	18
March 12 <sup>th</sup>		4	8	12

<sup>316</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>317</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>318</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

March 19 <sup>th</sup>		12	9	21
March 26 <sup>th</sup>		11	10	21
April 2 <sup>nd</sup>		16	7	23
April 9 <sup>th</sup>		28	5	35
<i>TOTAL</i>		<i>109</i>	<i>56</i>	<i>174</i>

Table 4.3: No. of Admission from Venereal Diseases, Compared to the other Diseases at Station Hospital Cape Town (20<sup>th</sup> Feb – 9 April 1880)<sup>319</sup>

The information given shows that the ratios of admissions for Venereal Diseases to Other Diseases was 62.64% and that during the indicated period 11.72% of the garrison was admitted into the hospital for treatment of a Venereal Disease. Another Table with more detailed information was also included.<sup>320</sup>

Table 4.4: No. of Patients (furnished by Garrison of Cape Town) in Station Hospital (February 20<sup>th</sup> – April 9<sup>th</sup>) who suffered from Venereal Disease compared with the No of patients suffering other diseases.<sup>321</sup>

Week Ending	Strength of Garrison	Venereal Disease Patients in Hospital	Other Patients in Hospital	Total Patients
February 20 <sup>th</sup>	960	62	41	103
February 27 <sup>th</sup>	949	60	32	92
March 5 <sup>th</sup>	931	59	25	84
March 12 <sup>th</sup>	951	49	24	73
March 19 <sup>th</sup>	915	51	28	79
March 26 <sup>th</sup>	917	50	33	83
April 2 <sup>nd</sup>	905	56	29	85

<sup>319</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>320</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>321</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

April 9 <sup>th</sup>	918	67	29	96
<i>TOTAL</i>	<i>7,446</i>	<i>454</i>	<i>241</i>	<i>695</i>
<i>AVERAGE</i>	<i>930</i>	<i>56.75</i>	<i>30.12</i>	<i>86.87</i>

Table 4.4: No of Patients (furnished by Garrison of Cape Town) in Station Hospital (February 20<sup>th</sup> – April 9<sup>th</sup>) who suffered from Venereal Disease compared with the No of patients suffering other diseases.

This table indicates that, on the last Friday of each week 63.35% of the patients still present in the hospital were Venereal Disease cases. The table also indicates further that during the period shown 6.10% of the total strength of the garrison was constantly sick with Venereal Disease.<sup>322</sup>

On the 8<sup>th</sup> of December further correspondence, this time between the Assistant Military Secretary's Office at the Castle and that of the Military Secretary at Government House took place. The letter was written to bring notice to "His Excellency of the Administrator",<sup>323</sup> of the pervasiveness of Venereal Disease affecting the health of the troop's comprising the garrison in Cape Town. The information was brought forward for the consideration that measures should be adopted by the Colonial Government which would alleviate this problem, not only amid the troops but also among the civil community. The letter included reports given in by the Surgeon Major SMO P.W. Stafford and consisted of three tables, the first table indicating the admissions from the first six months of 1880.

Table 4.5: No of Admissions from Venereal Disease as compared to other disease at Station Hospital, during the first 6 months of 1880. <sup>324</sup>				
Months	Average Strength of Garrison	Admissions of Venereal Disease	Admissions of other Diseases	Total Admissions (for month)

<sup>322</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>323</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>324</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

January	867	60	50	110
February	882	50	28	78
March	924	46	40	86
April	814	65	24	89
May	747	34	35	69
June	738	35	27	62
Total	4.972	290	204	494
Average	828			

Table 4.5: No of Admissions from Venereal Disease as compared to other disease at Station Hospital, during the first 6 months of 1880.

From this table it can be observed that the ratio of admission into the Hospital, for treatment of Venereal Disease, in comparison to that of those admitted for other diseases, can be calculated at a rate of 58.70% and thus it will further indicate that 35.02% of the garrison was admitted with Venereal Diseases during the first six months of 1880. The second table showed the admissions of the months July until November, again comparing the admission of those with Venereal Disease against those admitted for Other Diseases.

Table 4.6: No of Admissions from Venereal Disease as compared to other disease at Station Hospital during period 1 <sup>st</sup> July to 30 <sup>th</sup> November. <sup>325</sup>				
Months	Average Strength of Garrison	Admissions of Venereal Disease	Admissions of other Diseases	Total Admissions (for month)
July	743	33	31	64
August	942	18	30	48
September	971	32	37	69
October	766	30	33	63
November	754	18	30	48
Total	4,176	131	161	292

<sup>325</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

Average	835			
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Table 4.6: No of Admissions from Venereal Disease as compared to other disease at Station Hospital during period 1<sup>st</sup> July to 30<sup>th</sup> November.

Here it shows the ratio between Venereal Disease admissions and Other Diseases admissions to be at a percentage of 44.86, which meant that 15.68% of the garrison was admitted during the months July to November for cases of Venereal Disease. The third table indicated the statistics of Venereal Disease amongst the troops according to the different corps that each member belonged to. Three specific corps were looked at, the Royal Artillery, the Royal Engineers and the 91<sup>st</sup> Regiment, the rest of the numbers were made up of a group falling under the general term “Other Corps.”<sup>326</sup>

Table 4.7: Statistics of Venereal Disease amongst Troops composing Garrison at Cape Town, for 11 months of year 1880. <sup>327</sup>				
Corps	Average Daily Strength	Average Daily Sick	Total No. of days in hospital	Total Number of day ineffective
Royal Artillery	144	3.58	1.202	10.54
Royal Engineers	67	1.07	361	5.38
91 <sup>st</sup> Regiment	494	38.15	12.781	25.87
Other Corps	153	1.83	613	4.00
Total	828	44.63	14.957	45.79

Table 4.7: Statistics of Venereal Disease amongst Troops composing Garrison at Cape Town, for 11 months of year 1880.

This is a serious matter when it is taken into account that these admissions adversely affected the efficiency of the troops in that command. However, it would not only be the admissions that would have deterred the efficiency of the troops but the fact that once a member of the garrison

<sup>326</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>327</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

had been infected by such disease their constitution was undermined and thus their efficiency as a soldier for duty was impaired. The letter ends off with Lieutenant- Colonial W.E Montgomery, the Assistant Military Secretary, imploring that, under the circumstances brought to their attention, the Government should consider the renewal of the Contagious Diseases Act. The series of correspondences written received a reply on the 16<sup>th</sup> of December from Hampden Willis, the Acting under Colonial Secretary. The reply acknowledged the receipt of letters but stated that, even though the government regretted the prevalence of Venereal Disease in Cape Town, no steps would be taken without the consent of Parliament.<sup>328</sup>

On the 26<sup>th</sup> of January 1881 the newly appointed Surgeon- Major of the Station Hospital in Cape Town again attempted to address the issue of prevention and the spread of disease. Surgeon-Major U.A. Jennings wrote in shock about the condition in which he found the troops. He stated that the health circumstance among the troops was unprecedented for current times, though not uncommon in a former era in Military Surgery when the prevention of disease through legislative means had never before been attempted. The number of cases of Venereal Disease, when the Surgeon-Major was appointed, made up half of all the admissions to the hospital. He further discussed the fact that the full degree of such injury can only be adequately realized when it is taken into account that it is not only the current circumstance that brings ill to the befallen military men, but that the disease had, to a degree, caused permanent damage to the constitution of these men, and their descendants. This was due to the fact that, under the system that was in place at that time, military men, on completion of their term in the military, would marry into civil life, resulting in children who would then suffer from congenital syphilis. This meant that the current venereal disease situation was not only an immediate problem that needed to be dealt with but one which would linger well into future generations.<sup>329</sup>

These conditions, as stated by the Surgeon-Major,<sup>330</sup> were however not isolated cases of the military alone but rather the military cases should be viewed as examples of the extent of which the diseases were prevalent among the civilians, both males and females. “It should be borne in

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<sup>328</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>329</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>330</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – '81), National Archives of South Africa, Cape Town Archives Repository (KAB).



mind that Venereal Disease spreads silently and unobtrusively and does not present itself on public attention, like smallpox.”<sup>331</sup> He goes on to acknowledged the fact that many are adverse to legislative checks being put on Venereal affection, but, he argues, many are also adverse to vaccinations which have been proven to help in the case of smallpox. Thus it must be remembered that, just like smallpox, syphilis, had a far more extended bearing then the mere infection of one individual and tended to be far more dangerous than predicted on an entire community. The Surgeon-Major finished the letter by again expressing the need for legislative regulation to be implemented as “under no conditions of life can the results of venereal disease and the benefit of protective legislative checks be so effectively compared as in the case of Military and Naval services.”<sup>332</sup>

The letter was received and a reply was sent out by the Colonial Secretary’s Office on the 14<sup>th</sup> of March 1881 which merely stated that the above letter and the previous correspondence containing the figures of admission will be presented to Parliament for consideration. This set of correspondence is an important set of documents that shows the extent of the venereal disease ‘crisis’ in the Colony and the amount of pressure the medical boards and surgeons were placing on the Colonial government to interfere and urging them for legislative policies to be implemented. This also further emphasises the fact that the Acts were implemented first and fore mostly as a way to control the disease among the military and naval men, thus it was put in place as a way to protect the British government and its people, not as an overarching Act to protect the health of the citizens in the Colony.<sup>333</sup>

A letter was written in January of 1885 from the Secretary of the Colonial Medicine Committee to the Colonial Secretary concerning the difficulties of checking the prevalence of syphilis in the country’s districts.<sup>334</sup> The medical board recognised this difficulty and suggested that without the proper regulation, such as the Contagious Diseases Act of 1868 which was repealed in 1872, the situation could not be properly controlled. It was suggested that the 1868 Act be amended and re-

<sup>331</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – ’81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>332</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – ’81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>333</sup> Cape Colony Publications, *Correspondence, with supporting statics, between the Colonial and Imperial Military Authorities respecting the continued prevalence of Venereal Diseases in Cape Town*, 1881, (CCP 1/2/1/46, ref: G46 – ’81), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>334</sup> Colonial Office, *Letters Received: Medical Committee, Medical Institutions and King Williams Town Hospital*, 16 January 1885, (CO 1315), National Archives of South Africa, Cape Town Archives Repository (KAB).

implemented as without it keeping Contagious Diseases under check was near impossible. It was also in this letter where it was made clear that the term 'Contagious Diseases' now included the disease syphilis, which was previously a Venereal Disease. This meant that previously prostitutes who were found to be 'diseased' would have been infected and treated only for Gonorrhoea. Making syphilis part of the Contagious Diseases Group however formed a new set of problems regarding the way in which the disease would be handled. Due to its different forms and phases the disease was a difficult one to deal with and it was strongly suggested that every case be handled individually by a qualified physician and never left to any ignorant person.<sup>335</sup>

### 3.7. Conclusion

By looking at both the introduction and the repeal of the 1868 Contagious Diseases Act it can clearly be seen that when the British took over the Colony, it did not just mean the British could use the location and resources, it also meant the introduction and exposure to their laws, mindsets and ideas. Along with the response to the venereal disease and the implementation of regulation came the resistance to regulation. When Britain conquered parts of the world through the British Empire, it took with it not only the knowledge of commerce and ability to build the flourishing trade of prostitution, but also paradoxically had one more very influential export. That export was one of official prudery.<sup>336</sup> With this growth in awareness of vice and immoral lifestyles, concerns began being voiced over aspects such as protection of children and the age of consent, along with the problem that came with the trafficking of women. Although the cases mentioned in this chapter revolving around those two issues do not fall into the chapters time frame, the records show that these problems existed at the onset of the Contagious Diseases Acts and not only later when legislative focus was shifted onto them.

Although it was reported in the Select Committee findings in 1869 that medically the regulation was gaining positive results and producing satisfactory levels of venereal disease decline in the troops, the moral aspect of these Acts was its ultimate downfall. Pressure from both the Cape Colony public, through channels such as the select committee and the association for the repeal, and from England, especially through the women's movements, led to the repeal of the Act in 1872. However just as the Contagious Diseases Acts, when introduced, were received with

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<sup>335</sup> Colonial Office, *Letters Received: Medical Committee, Medical Institutions and King Williams Town Hospital*, 16 January 1885, (CO 1315), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>336</sup> Ronald Hyam, *Empire and Sexuality: The British Experience*, (Manchester: Manchester University Press, 1991), 362.

mixed feelings, so too, was the Repeal Act. In the documentation that followed the repeal, it can be seen that an abundance of the public opinion came to realize through medical reports, officials enquiries and military problems, that the Act was indeed providing much needed services. Thus there was again a movement to bring the repealed Act back. This created an interesting situation as you had two sides fighting against one another, but ultimately for the same goal: to rid society of venereal disease. The one side however felt that regulation was the correct way in which to control the spread of the disease, the other feeling that the form of regulation was an ill treatment of women and misused government funds.

## Chapter 5:

### Sexual Regulation in the Cape Colony c. 1881 – 1901.

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#### 5.1. Rethinking Regulations

The Repeal Act of 1872 stirred a number of societal emotions. Mixed reactions dominated the fight for a new Act to be implemented. What becomes apparent, however, in the later records is the clear shift of perspective concerning venereal disease, prostitutes and the Acts attempting to control it. With the 1868 Act the focus was on the proof that the Act was indeed working and that the need was greater than the fall out of the Act. Graphs and tables dominate the correspondences between offices of the Government and Medical institutions. After the 1872 Repeal Act, however, a more morally aware, and to a certain extent, a more personal side to the dealings of the Acts and the people it implicated emerged. Archival evidence becomes dominated by statements, personal accounts and opinions. Letters written by lawyers concerning the mistreatment of wrongly accused women, as well as more vocal opinions being lifted in society pages and newspaper articles, make up a large amount of the evidence found. Although a large number of hospital records can be found for this time, it is the existence of these other documents that sets the two Acts apart.

The Acts, although endorsed as a means to protect society from the harsh realities of the lower class problems, seemed to have had the opposite effect. What was once deemed a taboo subject became a centre point of discussion within the general public. The Acts created awareness, not only of the dangers of immoral behaviours and the abundance of venereal disease existent in the Cape Colony, but also to previously accepted norms and the consequences of societal standards. Aspects such as sexual prudence, male responsibility and the treatment of women became hot topics during this time. This too was ushered on by the international boom in this field of thought which had occurred in the late 1860s already and was rapidly spreading concepts and ideas around the world.

The 1885 Contagious Diseases Act lies at an unique juncture in the history, not just with regards to the Cape Colony or South Africa as a whole, but internationally as well. During its 34 years the Act straddled a number of key moments in history. Locally the discovery of gold and diamonds created a massive international flocking to the country which led to a boom in the prostitution sector, as well as the rise of ‘continental women’ in the Colony. The South African

War (1899 – 1902), as well as the creation of the Union in 1910, were also key moments in history during this time. Although these all occurred during the same time as the Contagious Diseases Act, due to the scope of this research only the first 15 years of the Acts operation will be focused on, although events in 1901 and the Morality Act of 1902 will be touched on. Although evidence shows that the influx of prostitutes and thus venereal disease problems also occurred on the Rand,<sup>337</sup> especially with the mineral boom, the scope of this research focuses predominantly on the events in the Cape.

This chapter will thus focus firstly on the events leading up to the 1885 Act “for the better prevention of Contagious Diseases,”<sup>338</sup> as well as the difficulties incurred after the Bill was passed, up until the Select Committee report put together in 1896. This more legal and statistical research gives way to an in depth look at the personal documentation of the Acts during this time. Firstly, looking at how the Act divided the role of the sexes, then at the cost of control. Lastly the chapter will deal with the role the Acts had in blurring the boundaries of societal norms, as well as the treatment of women under the Act and the consequences of international involvement.

## 5.2. Amending the Act

Between 1880 and 1885 very little correspondence was produced regarding the need for new regulations to be implemented. Having submitted the facts and figures of venereal disease patients for presentation to parliament meant that it was purely a waiting game to see how the authorities would react to the need. During this time the burden of health care, especially that concerning prostitutes and contagious diseases, fell squarely on the shoulders of reluctant local authorities. These authorities had neither the desire nor the funds or power to act in any needed way. A series of Acts were, however, passed in the early 1880s but little use was made of them.<sup>339</sup>

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<sup>337</sup> For a detailed historical review of this time in Witwatersrand look at the Chapter titled Prostitutes and Proletarians in Charles Van Onselen, *Studies in the social and economic history of the Witwatersrand, 1886 – 1914, Part 1: New Babylon* (Johannesburg: Raven Press, 1982).

<sup>338</sup> Cape of Good Hope Colony: *Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1652 – 1886, Vol II*, (1885), 2384.

<sup>339</sup> Elizabeth van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 177.

The “Act for the Better Prevention of certain Contagious Diseases”<sup>340</sup>, was put forward as a Bill in 1885. The medical board recognised this difficulty and suggested that without the proper regulation, such as a Contagious Diseases Act, the situation would not be properly controlled. It was suggested that the 1868 Act be amended and re-implemented as without it keeping Contagious Diseases under check was near impossible.<sup>341</sup>

An article written concerning the amended bill appeared in the *Cape Times* at that time and noted that there seemed to be little to no danger of opposition from the country districts and if such opposition would arise in the larger cities there was more than enough substantial evidence to prove the need for this Bill.<sup>342</sup> However no such opposition arose and the Act was passed, coincidentally only a year before the same Act was repealed in Britain.<sup>343</sup> It would later emerge that the Bill was pushed through, not due to medical emergencies but rather due to the pressures placed on the government to implement a form of regulation in order to keep the venereal disease outbreak, especially among the military, under control. Not implementing this would have resulted in a withdrawal of troops in the Cape Colony.

The Act implemented in 1885 was an amended version of the 1868 Act, with two notable differences. The amended Act avoided much of the previous legislations irregularities by splitting the Act into two parts. It was in the first part of the Act where the two changes occurred. This first section of the Act applied solely to prostitutes defined as, “women following prostitution as a calling.”<sup>344</sup> Casual immorality, under this part of the Act, did not subject any women to undergo examinations. It was indeed these examinations, particularly the fact that there were double examinations, which had caused many grievances in the prior Act. However the new legislation had forgone with the double examination process. The second change was that concerning the involvement of the police. Previously the police were responsible for the finding and summoning of any women considered to have been acting in an immoral manner. With the amended Act, this responsibility fell onto the shoulders of newly appointed lay inspectors. This was an attempt to

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<sup>340</sup> Cape of Good Hope Colony: *Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1652 – 1886, Vol II*, (1885), 2384.

<sup>341</sup> Colonial Office, *Letters Received: Medical Committee, Medical Institutions and King Williams Town Hospital*, 16 January 1885, (CO 1315), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>342</sup> Elizabeth van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 178

<sup>343</sup> Vertrees, C. Malherbe, “Family Law and 'The Great Moral Public Interests' in Victorian Cape Town, c. 1850 – 1902,” *Kronos* 36, (Nov., 2010), 14.

<sup>344</sup> Cape of Good Hope Colony: *Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1652 – 1886, Vol II*, (1885), 2384.

control corruption and bribery within the workings of the Act; however it can be seen that if anything, the problems seemed to only worsen in this regard. The first part of the Act, although put forth as a sure way to prevent venereal disease, emphasised clearly that women, and most exclusively prostitutes, were the main cause in spreading these diseases.<sup>345</sup> Once again the Act disregarded the immoral behaviours of men, and allowed, once again that no responsibility for immoral actions be placed on their shoulders.<sup>346</sup>

Part two of the Act, apparently, applied without distinction between sexes. There is no evidence to show that this part of the Act was ever implemented though and the impression was there that the Contagious Diseases Act was against the female sex with regard to any casual Acts of immorality, or any form of “looseness of life.”<sup>347</sup> However a Select Committee Report on this query reported that even if a woman was seen entering into a brothel, or was convicted of illicit prostitution, or was living as a kept mistress, none of these subjected her to the periodical examination that the Contagious Diseases Act implementation called for. However the fact that the Act, like the 1868 Act, did not stipulate an exact definition of the term prostitution, and define what was not considered to be prostitution, meant that all of the above women were also deemed “prostitutes” by those enforcing the Acts and were written up on the register, and thus were subject to the periodical examinations.<sup>348</sup>

### 5.2.1. Affirming the Act.

Despite much pressure the Act was not able to be put into operation for several years due to concern regarding the expense incurred with its implementation. In 1886 it was stated that £5000 would be needed to fully enforce Part 1 of the Act. Although the funds seemed to be short to put the Act through for implementation, a Lock Hospital was built in Cape Town next to the Roeland

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<sup>345</sup> Liezl Gaum, “Turning Tricks: A Brief history of the regulation and prohibition of prostitution in South Africa,” *Stellenbosch Law Review* 14, No 3 (2003), 327.

<sup>346</sup> Julia F. Solly, *State Regulation of Vice, Read Before a Meeting of the Women's Enfranchisement League (Cape Province). On Behalf of the International Federation for Abolition of the State Regulation of Vice*. Printed on the request of Mr John Brown and Mrs Beresford, (1906), 8.

<sup>347</sup> House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>348</sup> House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB).



Street gaol. Finally in 1888 after a number of alarming reports were received from surgeons, the Act was finally promulgated.<sup>349</sup>

By 1893 the Act had been well underway for approximately five years and reports were summoned from all medical inspectors regarding the working part of section 1 of the Contagious Diseases Prevention Act of 1885.<sup>350</sup> The report contained details concerning a number of regions, including those of Cape Town and Wynberg. In Cape Town, a total of 229 women were examined and placed on the register for the year 1893. Of the 229 women 146 of them were found to be diseased and were admitted to the Lock Hospital for treatment. These cases were recorded as being mild, and further records showed that there was a reduction in the average period of stay at the hospital.<sup>351</sup> The average stay for 1893 was shown to have been only 31.96 days whereas previous records show that the average stay in 1892 was 33.95 days, in 1891 it was 86.11 days, and in 1890 it was recorded that the average stay was 90 days. Although the number of days on average decreased, the number of new cases increased. In 1893 the number of new cases brought under observation was 111, whereas in the previous year the number of new cases was 80. These fluctuations and increases in the numbers could be seen as evidence regarding the existence of corruption within the running of the Acts. Both Doctors and Officials were paid according to the amount of women placed on the register, thus if less time was spent in the Lock Hospital, beds would be open for new cases to be entered. The record also included information such as the appointment of an additional lay inspector who was appointed in the November of 1893. A table was also included in the report to illustrate the operation of the Contagious Diseases Act in Cape Town during the year 1893.<sup>352</sup>

Number on register on January 1 <sup>st</sup> 1893	118
Number of new cases during the year	111
Total Number on the register during the year	229
Removed from the register in the course of the year	70
Remaining from register on December 31 <sup>st</sup> 1893	159

<sup>349</sup> Elizabeth van Heyningen, "The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts," *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 178

<sup>350</sup> House of Assembly, *On petition relating to Contagious Diseases Act, Case of Christina Schafer*, 5 July 1894, (HA 369, ref: appendices 1), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>351</sup> House of Assembly, *On petition relating to Contagious Diseases Act, Case of Christina Schafer*, 5 July 1894, (HA 369, ref: appendices 1), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>352</sup> House of Assembly, *On petition relating to Contagious Diseases Act, Case of Christina Schafer*, 5 July 1894, (HA 369, ref: appendices 1), National Archives of South Africa, Cape Town Archives Repository (KAB).

Number of patients examined during year	2731
In hospital on January 1 <sup>st</sup> 1893	19
Number of admissions in hospital 1893	276
Discharged during the year	279
Remaining in hospital on December 31 <sup>st</sup> 1893	16
Average daily number in hospital	25.8
Average duration of stay in hospital	25.8

Table 5.1. The Contagious Diseases Act in Cape Town, 1893.

In Wynberg the situation was slightly different.<sup>353</sup> In the year 1893 the number of females on the register was 60, which was a decrease of 10 from the previous year. Of the 60 women on the Wynberg register, only 12 of them were found to be diseased and sent to hospital. Eight were sent to hospital on the one occasion and four on two other occasions, thus the amount of admissions to hospital was reported at a total of 16. During the periodical 25 examination sessions held throughout the year, 44 of the above mentioned women were examined. The number of women individually examined during these sessions totalled at 550.<sup>354</sup> The 10 women remaining to make up the total of 60 on the register were those that had been reported as having absconded; five of them attending examinations in Cape Town and Simonstown. One woman had voluntarily submitted herself for examination but failed to appear. The report on Wynberg, concluded by the Medical Inspector, stated that one of the difficulties with the Act and the workings of the different parts of the Act, especially in a “scattered community” such as Wynberg, was that it was difficult to bring all the women on the register who should be on it. Those who are on the register and find themselves to be diseased often hide themselves away, running the risk of persecution, instead of presenting themselves for examination.<sup>355</sup> These reports were presented to a Select Committee in 1895 for review.

<sup>353</sup> House of Assembly, *On petition relating to Contagious Diseases Act, Case of Christina Schafer*, 5 July 1894, (HA 369, ref: appendices 1), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>354</sup> House of Assembly, *On petition relating to Contagious Diseases Act, Case of Christina Schafer*, 5 July 1894, (HA 369, ref: appendices 1), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>355</sup> House of Assembly, *On petition relating to Contagious Diseases Act, Case of Christina Schafer*, 5 July 1894, (HA 369, ref: appendices 1), National Archives of South Africa, Cape Town Archives Repository (KAB).

### 5.2.2. The Select Committee

Select Committees played an integral part in the reviewing and amending of various Acts. If an Act was under review, a Select Committee would be called to evaluate various reports drawn up concerning the operations of the Act, as well as doing their own research in this regard. The 1885 Contagious Diseases Act was called into question three times between 1894 and 1899. The first committee was called to discuss whether amendments should be made to the Act. Two of these amendments were that provisions be provided to: firstly, enable any woman to be removed from the register if she ceases to be employed as a common prostitute. Secondly, a provision should be made that any woman may appeal to the Superior Court from the decision of a Magistrate.<sup>356</sup> These provisions were called under recommendation due to the widely publicised case concerning Christina Schafer.

The case of Christina Schafer was brought to the Magistrate's attention at the beginning of 1893. Christina Schafer was a young domestically employed girl who was forced to undergo examination, for no apparent reason other than hearsay.<sup>357</sup> A letter was written, on the 28<sup>th</sup> of March 1893, to the Colonial Secretary in Cape Town concerning the case. The young girl was an appointed domestic in the house of Mr Noaks and had been employed there for three years prior to the incident. Christina Schafer was taken in for two examinations both performed by Dr Uppleby, once at her house of employment and the second time at the hospital, before she was given a consent form to sign, which should have been given to her prior to her first examination. When the form was provided no one gave any explanation as to what the piece of paper stated and due to the fact that it was given to her after her second examination the young girl, not knowing any better and with lack of formal education enough to be able to read, assumed that it was a form to show that she had consented to the examination as a means to show her innocence. The sequence of events, although strange with regards to the double examination, was never focused on as an important aspect of the overall case.

<sup>356</sup> Cape of Good Hope Colony: *Statutes of the Cape of Good Hope passed by the Third Parliament during the Session 1652 – 1886, Vol II*, (1885), iii.

<sup>357</sup> Colonial Office, *Letters Received: To the hon. The Colonial Secretary Cape Town, From Mr Alexander concerning the Christina Schafer case*, 28 March 1893, (CO 4285, ref: A18 and A45), National Archives of South Africa, Cape Town Archives Repository (KAB).

Her name was thus placed on the register and she became a “common prostitute” and upon appeal to the Magistrate was refused removal from the register.<sup>358</sup> However no paper was served to her until she was released from the hospital almost two months later, even though the Act states differently. Under section 13 of the Act of 1885 it states that a copy of the orders must be served to the female prior to her first examination.

When the case was brought to the attention of the officials, statements were taken from those she worked for and with. All those who knew her and gave statements as to her character maintained that the young girl was never suspected of doing immoral deeds. She was only ever allowed out at night on a Wednesday and that was until 9 o’clock in the evening, on other evenings she was not allowed out unless to run an errand.<sup>359</sup> So there was then, as stated in the letter, a complete lack of evidence of opportunities where she may have contracted the disease. She was treated as though she was in Port Elizabeth purely “for the purpose of prostitution” however the reality is far different. She was in Port Elizabeth at that time due to employment in the most respectable household. Her employer, Mr Noaks, was previously employed as Rector of the Grey Institute and claimed in a letter written on the 12<sup>th</sup> of July to Mr A.R Alexander, the person assisting Christina Schafer in the case, that “there was no doubt about her respectability.”<sup>360</sup>

The case details however shed light on another concerning matter within the running of the Contagious Diseases Acts. Dr Uppleby, in this case, acted in a very obscure manner. He firstly examined the girl twice, once in her house of employment and then again at the Lock Hospital. The girl was never brought in front the Magistrate, nor afforded any opportunity to question the information laid against her. When her friends enquired as to whom the informant was that laid such a serious charge against her moral character they were refused any information. This is strange as the Act specifies that punishment would be enforced for any informant laying information ‘without reasonable or probable cause.’ The Doctor also refused that any other medical men examine Christina, even when her Uncle specifically requested it. She was detained in the Lock Hospital by Dr Uppleby from the 22<sup>nd</sup> of May until the 5<sup>th</sup> of July 1892. Upon being

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<sup>358</sup> Colonial Office, *Letters Received: To the hon. The Colonial Secretary Cape Town, From Mr Alexander concerning the Christina Schafer case*, 28 March 1893, (CO 4285, ref: A18 and A45), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>359</sup> Colonial Office, *Letters Received: To the hon. The Colonial Secretary Cape Town, From Mr Alexander concerning the Christina Schafer case*, 28 March 1893, (CO 4285, ref: A18 and A45), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>360</sup> Colonial Office, *Letters Received: To the hon. The Colonial Secretary Cape Town, From Mr Alexander concerning the Christina Schafer case*, 28 March 1893, (CO 4285, ref: A18 and A45), National Archives of South Africa, Cape Town Archives Repository (KAB).

released she went to be examined, on her own accord, by a Dr Holman, but by then it was declared medically too late to prove or dispute the alleged previous existence of any venereal disease.

The case generated a great amount of discontent with regards to the way in which the Contagious Diseases Act was being executed. The case shed light on problematic areas, where the Act was possibly not serving people properly and thus it was felt that the implementation of the Act needed to be revised and improved upon. Mr A.P. Alexander, the attorney that took on the case, urged the necessity of an impartial government inquiry into, not only the Christina Schafer case, but the general administration of the Acts. He also submitted a number of suggestions regarding the Contagious Diseases Act policies which he felt needed to be looked at. Firstly he stated that the women who were placed on the register needed to be fully investigated as to whether they were indeed in the area of Port Elizabeth for the sole purpose of prostitution. He also advised that steps be taken to supervise the management of the Lock Hospital as many cases have been found where the accused have been “strongly persuaded” by the medical inspector as a mean for them to procure the accused signature.

This coercion could have come forth due to the fact that the inspectors who worked under the Contagious Diseases Acts were not always paid the highest of salaries and many of the medical inspectors were paid extra for every woman they registered. Thus it was seen not only as an incentive to do the job properly but also meant that many women were having their names added to the register without any further investigation into whether the information claiming the women to be a prostitute was true or not. This also resulted in the fact that some of the women who had been forced to undergo examination and forthwith had their names added to the register were actually living with their husbands. Mr Alexander urged that opportunities to reform be created for women who had their names placed on the register and that when evidence could be provided to contradict the accusation of prostitution that the names be removed. The attorney advised that the Acts be implemented under the premise of the British Justice system where the accused should have the benefit of the doubt.<sup>361</sup>

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<sup>361</sup> Colonial Office, *Letters Received: To the hon. The Colonial Secretary Cape Town, From Mr Alexander concerning the Christina Schafer case*, 28 March 1893, (CO 4285, ref: A18 and A45), National Archives of South Africa, Cape Town Archives Repository (KAB).

A second Select Committee was called a year later to further investigate the proceedings of the Contagious Diseases Act.<sup>362</sup> By 1895, requests were being made once again to repeal Part 1 of the Act. After much investigation the Select Committee drew the conclusion that such a recommendation would be advisable but amendments within Part II of the Act should be taken under consideration. It was found that any significant decrease in the levels of infection were mostly down to Part II of the Act and Part I had very little practical effect as it was not enforced in many parts of the Colony. The scope of Part I was also reconsidered and whether any improvement could be found if the part were to be extended, making it applicable to all the females in the colony and not only select areas. This however yielded no recommendations as it was believed that it would be too difficult and costly to extend the workings of the Act beyond the common prostitute. Another area that the Select Committee reviewed was the indication that to repeal the Act could not be done without dangerous consequences. The committee countered this argument with examples from India and England where the Acts were safely and successfully repealed.

A pivotal argument was dealt with within the deliberations of the Committee. The assertion was made that the main objective of the Act was to protect the troops stationed at the Cape, as well as the various seamen who made use of the port. However such Acts had already been repealed in certain colonies such as India, as well as England itself. Thus it was deemed unnecessary to ask of the Colony to incur costs attempting to run an Act that was deemed unnecessary elsewhere.<sup>363</sup> This debate turned quickly to one of responsibility and a quote from the Select Committee report shows that the opinion of those on the committee was that the Act was making the government responsible for the actions of men and the consequences of said actions.

“There seems a certain amount of incongruity in calling on the men to exercise a higher morality in their conduct, whilst at the same time the Government of the country makes provisions, as far as it can, for a man’s indulgence in his propensities without injurious consequences. The result of this action on the part of the State, on men, on officers, and on society, is generally to slacken efforts towards correction of habits of sensual

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<sup>362</sup> C.5-’95, Cape of Good Hope, *Report of the Select Committee on the Contagious Diseases Act Amendment Bill*

<sup>363</sup> C.5-’95, Cape of Good Hope, *Report of the Select Committee on the Contagious Diseases Act Amendment Bill*, IX.

indulgence and to throw all the responsibility for the prevalence of disease on the shoulders of the government.”<sup>364</sup>

The point of the 1895 Select Committee was to corroborate whether or not there was any validity in repealing Part One of the Contagious Diseases Act. The Committee submitted the following conclusions: firstly that the workings were costly and that to repeal the Act might result in immediate increases in infection rates but no reason can be given to believe that the end result of the repeal would be different here to other colonies. Secondly, the Committee came to the conclusion that the provisions of Part One of the Act not only shocked the sense of decency in a large portion of the society but it was also degrading to all women, not just those termed “common prostitutes”<sup>365</sup> and dishonoured the female sex. Although these last conclusions were drawn solely on sentiment, they cannot be overlooked as being justifiable reasons for the repeal of Part One.

Even though the Select Committee of 1895 put forth a strong argument for the repeal of Part One, no further steps were taken to repeal any part of the Act and in September of 1899 another Select Committee was called, once again to look into the workings of the Act. This Committee put forward an interesting counter argument against the repeal of the Act, showing a comparative study between Cape Town and India. The comparison was an interesting one as it focused on the time when the Act was newly implemented in Cape Town, which was the same time at which the Act was repealed in Rohel Khan, India. The chart that shows the number of infected per 1000 (military figures) can clearly be seen as being impacted by the implementation of the Act. It can clearly be seen that the station at Rohel Khan started out in 1884 as having a low number of admissions, on average 132 per 1000 admitted, with regulation. However after the regulation was repealed in 1888 the numbers shot up to an average of 370. In Cape Town the same can be shown. Before 1888 the Cape was running with regulation, and on average they were receiving 371 syphilis admissions per 1000, however once the regulation was implemented in 1888 the numbers decreased drastically down to, on average, 168 syphilis admissions per 1000. The chart clearly demonstrated that regulation was the reason for the decrease in the number of infected admissions. This supported the Select Committees argument against the repeal of the Act.

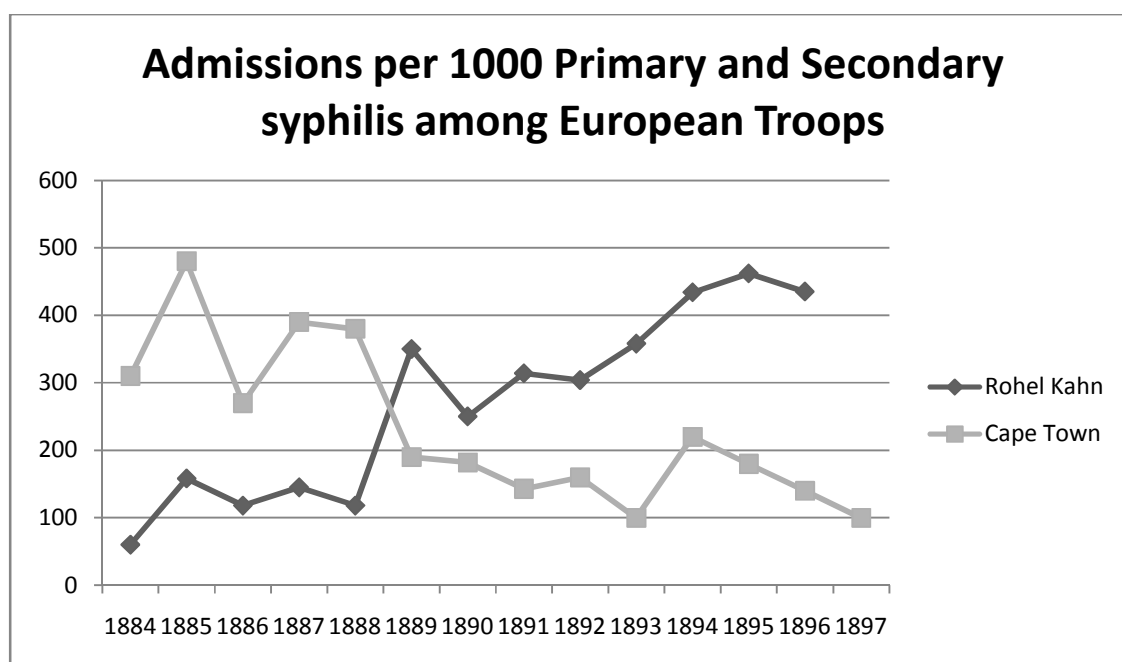
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<sup>364</sup> C.5-'95, Cape of Good Hope, *Report of the Select Committee on the Contagious Diseases Act Amendment Bill*, IX.

<sup>365</sup> Cape of Good Hope: Report of the Select Committee on the Contagious Diseases Act Amendment Bill. Ref: C.5-'95.p.X



It must be noted that as a rule, when dealing with the Contagious Diseases Acts statistics, only military figures are taken into account. This, however, further emphasised why many people regarded the Acts as being solely implemented for the protection of the soldiers. The military numbers were easy to obtain and for military purposes the recording of such aspects were done on a more regular basis and more thoroughly than the data that could be produced on civilians. However, as stated by one of the Select Committee members, “there is no need to suppose that syphilis is more prevalent amongst soldiers than amongst civilians.”<sup>366</sup> It could rather be believed that the amount of syphilis among the garrison is a fair indication of its prevalence amongst civilians. This was especially true for the Cape Town district as there were a number of incidences which told of the relations, much of which are of an extensive and promiscuous nature, happening between soldiers and the coloured domestic class. There was no question to the prevalence of the disease among the lower class prostitutes, as many of the Lock Hospital records show, and thus it was certainly being communicated to the soldiers, and thus in turn the soldiers were spreading the disease to the non prostitute, domestic servants.<sup>367</sup>



Graph 5.1. Comparison between Rohel Kahn and Cape Town syphilis admissions

<sup>366</sup> House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>367</sup> House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB).

The Select Committee was again, similarly to the 1895 report, asked to put forward recommendation on improving the efficiency of Part 1 of the Act. Due to the fact that this part applied solely to women following prostitution as a calling, the recommendation was put forth that the names and addresses of all persons who were known to be practising prostitution should be kept up to date and correct so that house visits and occasional serving of summons could be secured more effectively and frequently. This recommendation applied principally to the lower coloured classes and was suggested as a means to prevent the diseases spreading further.<sup>368</sup> This implied that the coloured population needed additional legislation and was found to be offensive, not just to the coloured population but also to the large number of white girls who were affected by the Act.<sup>369</sup> During 1898 alone 530 women were placed on to the register. Of the 530 prostitutes, 162 were found to be infected with Venereal Disease. Out of the 162, 26 of them were European women and the rest were coloured prostitutes. It was also highlighted in the notes made on the register that the prostitutes were coming almost exclusively from the domestic service class.<sup>370</sup>

Documentation concerning the Contagious Diseases Act up until the 1890s features very little emphasis on race. Other than a column on the register assigned for a prostitute's race, skin colour made very little difference in the world of prostitution. Even in the Lock Hospitals, residents were all kept together in one ward and treated together, and no mention was made about any attempts to separate them further into classes or distinguish between races.<sup>371</sup> The labelling of race or country of birth was purely set aside for official documentation purposes.<sup>372</sup> This was done to easily identify them if they were mentioned by an infected soldier or sailor, as well as a means to keep track of the prostitutes who had been placed on the register and thus had to show up for routine inspection. In the first official register put together for the Contagious Diseases Act in 1868 an array of categories are used in order to classify the racial backgrounds of the women. Although it has been suggested that the 'Afrikander' was used as a means to identify what is in

<sup>368</sup> House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>369</sup> O. Schreiner, J.F. Solly, H. Davidson M. Cleghorn, *A letter to the Members of the Legislative council and House of Assembly*. Cape Town National Library: SABP 186 (5)(7).

<sup>370</sup> House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>371</sup> For a more detailed look at how demographics were analysed and the detailed descriptions of the various racial groups look at: Charles Simkins & Elizabeth van Heyningen, "Fertility, Mortality, and Migration in the Cape Colony, 1891-1904," *The International Journal of African Historical Studies* 22, no. 1 (1989), 79-111.

<sup>372</sup> Colonial Office, *Letters received: Immigration, medical, King Williams Town Hospital, Robben Island and Somerset Hospital*, 1868, (CO 888), National Archives of South Africa, Cape Town Archives Repository (KAB).

modern classifications known as ‘coloureds’ the overall classifications are indeed rather confusing.<sup>373</sup> Although were this term was designated, there were also women classified under the term ‘Malay’ and ‘Indian.’ The term ‘Indian’ is further confused by the introduction of the term ‘Malabar’ which is a region in India. These complex classifications also existed in terms of Africans. The term ‘Kaffir’ is used as a designated racial marker, however so is the term ‘Mozambique.’ Clarification was introduced in the latter part of the nineteenth century, as can be seen in the Select Committee Reports and documentation, when the “Afrikander” fell away and the more colloquial term “coloured” became the frequently used expression.

The Select Committee Reports generate a great deal of evidence for and against the Act. These committees were made up of various well informed individuals, such as surgeons, Commanders of the troops, resident magistrates and colonial secretaries<sup>374</sup> making the reports important research tools in the undertakings of the Contagious Diseases Acts. These reports give well informed insights into the workings of the Act, as they do not only factor in opinions but also generate valid arguments based on evidences available in each reports appendix.

### 5.3. The Repercussions of Regulation

Although the Select Committee Reports take into account aspects beyond pure statistical data, the extent of what was truly happening went far beyond that which was reported in the various reports. The Act was not purely for the control of the coloured population, as was insinuated in the Select Committee report of 1899 as many innocent women, regardless of race, were horribly affected by the Act.<sup>375</sup> In Britain, this injustice to women became the backbone of the fight for emancipation and the woman’s right to vote as it was felt that the decisions regarding the female body was placed in the hands of men, at the mercy of men and in the control of men. This movement did not have great effect in the Cape Colony itself, but the same regulation produced many of the same repercussions that had sparked the movement in Britain. Three prominent repercussions of the Contagious Diseases Act can be seen. Firstly, the emphasis placed on the difference between the sexes. It is difficult to say where else in history the public acceptance of

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<sup>373</sup> Elizabeth van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984).

<sup>374</sup> C.5-’95, Cape of Good Hope, *Report of the Select Committee on the Contagious Diseases Act Amendment Bill*.

<sup>375</sup> House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB).

male and female roles became as increasingly highlighted as within the workings of the Contagious Diseases Act.

The second repercussion of the Act was the cost factor of the entire operation. Not only did it put a great deal of financial pressure on the Colony to manage, the general public also paid a heavy price. Often, due to the corrupt nature of some lay inspectors, innocent women paid the price of humiliation, degradation, and frequently their livelihood as the girls who were placed upon the register, often lost their respectable jobs in the domestic sector due to rumours and false accusations

The last aspect that the Contagious Diseases Act brought attention to was the treatment of women, especially prostitutes. Although many of the prostitutes were clearly living immoral lives and had the class and 'respectability' of the girls being held at the Lock Hospitals left much to be desired, the treatment of and attitude towards these 'residents' from the various inspectors, doctors and matrons, left even more. Incidents of riots and vandalism showed the level of dissatisfaction from those held at the hospitals and often create a grey area as to who was right and who was wrong. Were the women involved really creatures of disdain to be thrown aside and treated callously and with contempt or had they merely spiraled into a whirlwind of bad decisions?

The Contagious Diseases Act, although not directly responsible for the occurrence, certainly helped to throw light on a situation that otherwise would have been otherwise disregarded. Even though the Act made many changes to the role and runnings of the sex trade in the Cape, the overall trade was merely controlled rather than wholly disrupted.<sup>376</sup> The influx of 'continental women' however changed that.

These factors, as well as the mineral boom in the northern part of the Country, as well as the introduction of the Morality Act in 1902 all contributed to the overall discontent towards the Act.

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<sup>376</sup> Elizabeth van Heyningen, "The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts," *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 182

### 5.3.1. Dividing the Sexes

Throughout the reports generated from the Select Committees, as well as garnering information from several news paper articles and letters,<sup>377</sup> it can be seen that the general assumption made was that the responsibility to control vice fell squarely on the shoulders of the government, thus allowing the men involved to take on none of the responsibility for their actions. The men were seen as victim's being exposed to a disease rather than being the reason that the disease spread so quickly. Men suffering from venereal diseases were also not treated the same as the women, for women it was a punishable offence, for which they were sent to the Lock Hospitals to be treated. However very little documentation exists concerning the treatment of men. Men were taken up in military hospitals and if they suffered from any disease they were treated accordingly; without much attention being cast on the situation. No exclusive hospitals were built for men suffering from a venereal disease. Throughout the history of the two Contagious Diseases Acts in the Cape Colony, the paucity of reference to men and Lock hospitals, especially men being detained in such a place, is astounding. There are, however, a few items which are eye catching due to their male dominated nature. One such item is a series of letters found under the Public Works department in 1888. The letters were concerning the plans to convert an unused building between Upper and Lower Road outside the Military Reserve, Cape Town, into a Lock Hospital for men. This is one of the only reports of its kind and no other report of converting or building a location for such a Lock Hospital has been found. The house was originally built by John Montague as a market house. The property around the building however had been sold off to private developers and the building was, as stated by the Chief Inspector, "in a very bad state of repair and is totally unsuited to the purposes for which it is proposed it should be used, viz: for a Lock Hospital for men."<sup>378</sup>

The Contagious Diseases Acts were, from the onset of their implementation in Britain, seen as being focused solely on the confinement and treatment of women. As with most stigmas this was carried over with the implementation of the Acts in the Cape. The plans of a few Lock Hospitals

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<sup>377</sup> C.5-'95, Cape of Good Hope, *Report of the Select Committee on the Contagious Diseases Act Amendment Bill*, contents page ; A.24-'94, Cape of Good Hope, *Report of the Select Committee on the Petitions relating to Contagious Diseases Act No.39 of 1885*, iii. ; Solomon, S.: *The Contagious Disease Act: Its operation at the Cape of Good Hope, Four Letters to the Editors of the "Cape Argus"*, (Cape Town, 1897) and the collection of SABP letters and meeting minutes.

<sup>378</sup> Public Works Division, *Cape Town, Lock Hospital for men between upper and lower road outside Military Reserve*, 9 November 1888, (PWD 2/1/52 part 2 ref: 45 H and N), National Archives of South Africa, Cape Town Archives Repository (KAB).

however show how the “stigma” was an actuality. Soldiers were treated in their own confines and thus not placed in a Lock Hospital. However no room or area of occupancy was ever specially allocated for a male resident and nor is there any evidence of males being admitted into the Lock Hospital under the Act. There were males being treated for venereal diseases, often through private doctors or as part of a wider treatment at the local hospital. It was however solely women, and more often than not those written up on the register who were admitted into residence within the Lock Hospitals.<sup>379</sup>

Even though the Act was largely brought back for the safety of the military troops and seamen, little co-operation existed with regards to respecting the procedures in place to protect them. In 1892 a particularly fruitful source of documents and returns were kept for the Lock Hospital in Cape Town. Letters between the doctor and the Colonial Offices reveal much about the prostitution situation and the conduct of the females. The letters and the reactions concerning the actions of these women shed a great deal of light on the mindset that dominated those in charge. In the month of October 1892 a prostitute came to the Lock Hospital for inspection and was found to be ‘diseased’. Upon being asked how she came to be infected she stated that she and three others normally go to the beach area in front of the Military Hospital and waited around in hope that they may make some money off the military men that come and go from there. They stated that they were frequently offered refuge in a Military property house beyond the military cemetery. Here they were often received, sometimes detained and often hidden by the Artillery on guard. In the letter reporting these events, the Doctor expressed great disgust for these men, “the very men the government is trying to protect and keep free of disease are these that does all in their power to prevent the working of the Act.”<sup>380</sup> The doctor further stated that the military should, instead of encouraging such behaviour, do everything in their power to assist with the implementation of the Act. He goes further to suggest that the Military should have the power to arrest any women loitering about the beach without any visible means of existence other than prostitution.

The Acts that were put in place in the Cape, as well as elsewhere throughout the British Empire, were put there as a means to protect the military and to keep the men clean and healthy, thus

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<sup>379</sup> House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>380</sup> Colonial Office, *Letters Received: Lock Hospital*, 1892, (CO 1526), National Archives of South Africa, Cape Town Archives Repository (KAB).

keeping their families and the nation at large healthy. However when prostitutes underwent their compulsory state ordered examinations and made it known to the inspectors, doctors and nurses that they were welcomed into Military barracks and forts, this created problems for the implementation of the Act, and especially for the success of the Act. The prostitutes were not necessarily open and forthcoming with such information but they were more aware of the places they had been than those who hired them. The men who were recorded as coming to the military hospital and found diseased were also questioned as to where they may have been or if they could identify the prostitute with whom they had been. However it was recorded that about 80% of them would say they would be unable to identify them due to being drunk at the time. Around 10% of the men stated that the women they were with were black but other than that they could not identify them. Only roughly 7% could identify the women but did not know their name or their whereabouts. Only approximately 2% of the men who got treatment for a venereal disease would remember the name and give proper means of identifying the women they had been with and thus the one who was likely to have infected them.<sup>381</sup>

A letter was written by the Medical Officer Station Hospital in Cape Town on the 17<sup>th</sup> of September 1892. The letter was addressed to the Principle Medical Officer concerning the abnormal increase of Venereal Disease existing amongst the troops in the garrison. The letter contained in it a summary of a report written by the Under Colonial Secretary on the 9<sup>th</sup> of September 1892. It was reported that the increase in Venereal Disease was being attributed to the lower classed coloured women. It was stated that these women could be found every night loitering around the Parade and on the Beach between the Castle and the Hospital, their purpose of prostitution being a well known fact to any passerby, especially by the police. The suggestion was made by the Under Colonial Secretary that the police should assist the Lay Inspector. Empowering one, or even five, police assistants to arrest these women they suspected for loitering and soliciting. When those suspected are taken in to be examined for any Contagious Diseases then they would be off the streets and thus the disease so rife among the troops at present would be considerably less, if not stamped out entirely.<sup>382</sup> This letter shows the attitude that many of the Offices had toward women and highlighted the standards set out for each sex. Women were arrested and taken off the streets in order to keep the men from being infected. The

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<sup>381</sup> Colonial Office, *Letters Received: Lock Hospital*, 1892, (CO 1526), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>382</sup> Colonial Office, *Letters Received: Lock Hospital*, 1892, (CO 1526), National Archives of South Africa, Cape Town Archives Repository (KAB).



men who were however found to be infected were never arrested or taken to a different hospital and treated differently. The men were seen as the victims of women who sought them out and lured them in. There are no accounts of the troops ever being addressed about the issue of this disease being so prevalent. If there were stricter regulations put in place for the troops then no mention has been made about it.

In November 1892 the cases of venereal disease amongst the troops was still a problem. Even though suggestions, such as those made by the Under Colonial Secretary, were made in an attempt to decrease the spread of the disease, these suggestions were never put into action. A letter to the Military Secretary however showed that attempts had been made to clamp down on the workings of the prostitutes in the problematic vicinities. The letter included details laid out by the Chief of Police concerning an incident that occurred on the beach near the Military Hospital. The beach was thereafter regularly patrolled by officers. The police on patrol, a few nights prior to the letter being written, came across a soldier and a woman in the midst of intercourse. The woman was immediately arrested and proceeded against under the provisions of the Contagious Diseases Act.<sup>383</sup> No mention is made, however, concerning action being taken against the soldier. Are the men that seek these women out and hire them for such purposes not also liable for arrest and detention?

This particular question was asked a number of times in different situations, not only in the Cape Colony but worldwide. The concept that women were deemed less victimised than men, due to the fact that they lived from the fruits of vice, rather than men, who only sought out vice for pleasure, was something that sparked an international debate.

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<sup>383</sup> Colonial Office, *Letters Received: Lock Hospital*, 1892, (CO 1526), National Archives of South Africa, Cape Town Archives Repository (KAB).

33 [Form B.]

**The Contagious Diseases Prevention Act, 1885.**

ORDER SUBJECTING FEMALE TO EXAMINATION.

In pursuance of the Contagious Diseases Prevention Act, 1885, I  
*George Christopher Payne Esq.*, Resident  
 Magistrate for the district of PORT ELIZABETH, do  
 order that *Emma Contenti*  
 PORT ELIZABETH,  
 subject to a periodical medical examination by the Medical Inspector or  
 inspectors for the time being appointed under that Act, for the place, district,  
 area of PORT ELIZABETH, for the  
 purpose of ascertaining at such examination whether she is affected with a  
 contagious disease within the meaning of the said Act, and that she attend  
 at the first examination at *the Lock Hospital* PORT ELIZABETH  
 the *twenty third* day of *August 1892*  
*10* o'clock in the *fore* noon.  
*G. Payne*  
 Resident Magistrate of PORT ELIZABETH.

Figure 5.1: The Form B No 33 from the Emma Contenti case files.<sup>384</sup>

The theoretical debate concerning this division between the sexes dominated much of documentation concerning the Contagious Diseases Act. The movement in England to abolish the Act, which spilled over into the Colonies, was centred on the argument that there was a double standard concerning the actions of men.

Women were thus viewed as the sole distributors of venereal disease, and this attitude can be confirmed through evidence found in the forms which were attached to the workings of the

<sup>384</sup> Cape Supreme Court, *The petition of Emma Contenti of Port Elizabeth*, 18 August 1892, (CSC 2/6/1/138, ref: 259/1892), National Archives of South Africa, Cape Town Archives Repository (KAB).

Contagious Diseases Act. The form which was submitted with the petition of an Emma Contenti, further shows how the Act was aligned to target only females.<sup>385</sup> The Form B No 33 was filled out by the lay inspectors and subjected women to the periodical examinations at the Lock Hospital nearest to them. The form, as can be seen, shows that only females would have been subjected to examination with the submission of this form as there are no other provisions made to include or give the option that the form might be filled out for a male.

This form, as can also be noted, was printed in 1885. This means that the form was printed in accordance with the new Contagious Diseases Act which was re-implemented in that same year. Thus it can be deduced that the Act that was repealed in 1872 and re-introduced in 1885, after apparent amendments were made to it, was amended in other areas but not in the application towards females.<sup>386</sup> Females were still targeted and solely held responsible for the spread of the diseases.

### 5.3.2. The Cost of Control

The Emma Contenti case also brought attention to another area of concern with regards to the Contagious Diseases Act. This was the area of finances and corruption. The Select Committee Report of 1895 expressed concern over the level of expenditure needed for the general procedural costs, the employment costs as well as the costs of building and maintaining Lock hospitals.<sup>387</sup>

A number of the Public Works Division (PWD) documents generated during the operation of the Act show the amount of work and cost of maintaining the numerous government funded buildings. These include the costs generated by Lock Hospitals across the Colony. Numerous documents show that the buildings were often not well looked after and then large remodelling was necessary. As times changed so too did the functionality of the hospitals and often water supplies had to be implemented as new drainage systems were introduced. On the 8<sup>th</sup> of April 1889, it was recorded that the Simonstown Lock Hospital requested re-gravelling of the courtyard and that the sewerage system be looked at.<sup>388</sup> The cost of bedding and the upkeep of these

<sup>385</sup> Cape Supreme Court, *The petition of Emma Contenti of Port Elizabeth*, 18 August 1892, (CSC 2/6/1/138, ref: 259/1892), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>386</sup> Cape Supreme Court, *The petition of Emma Contenti of Port Elizabeth*, 18 August 1892, (CSC 2/6/1/138, ref: 259/1892), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>387</sup> C.5-'95, Cape of Good Hope, *Report of the Select Committee on the Contagious Diseases Act Amendment Bill*, contents.

<sup>388</sup> Public Works Division, *Cape Town, Simonstown Lock – Hospital*, 8 April 1889 – 22 January 1900, (PWD 2/1/20, ref: 44), National Archives of South Africa, Cape Town Archives Repository (KAB).

hospitals for everyday functionality also cost the colony a pretty penny.<sup>389</sup> The Public Works Division documents are important documents to look at due to the fact that one of the biggest gripes people had with the Contagious Diseases Acts and the implementation of the Lock Hospitals was the fact that the Colony was funding the treatment and ensuring the health of prostitutes. The argument was that money was being spent unnecessarily on the upkeep of fallen women, money which could have been put to use in a much better way elsewhere. The question that arose was why money was being spent to allow soldiers and military men to divulge in their vices?

The money surrounding the Contagious Diseases Act was one that cannot be brushed aside. It would be problematic to say outright that those implementing the Acts were all corrupt and in the same way the system itself cannot be deemed corrupt either. However it can be said that many of those in positions of power within the Acts took the opportunity to exploit their positions. One area where this was abundantly clear was in the registration of prostitutes. The Magistrate often signed unfinished slips and left it up to the Inspectors to fill them out. For every prostitute placed on the register the inspector was given money. This meant that often innocent women were targeted to be put on the register for money. Evidence of this happening can be found in the numbers seen in the reports put together by the Medical Inspectors in regions such as Cape Town and Wynberg in 1893.<sup>390</sup>

The implementation of the Acts was sometimes so badly managed that many women placed on the register were clearly not prostitutes, coming from well to do houses, such as the case with Emma Contenti of Port Elizabeth. George Montgomery Walker, Emma Contenti's attorney laid a petition on her behalf to remove Emma's name from the register and after much investigation it was uncovered that two prostitutes who seemed to know of Emma made her their target and accused Emma of being a prostitute to a Mr G Uppleby, a justice of Peace, to get her on the register. When questioned as to what their motives were, the two women, Sarah Gutman and Francis Benson, stated that it was for the sole reason that they were on the register that they

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<sup>389</sup> Colonial Office, *Simonstown Lock Hospital Appointment of Staff, establishment of Casualty ward and other miscellaneous matters*, 1899 - 1904 (CO 7338, ref: folio 151), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>390</sup> House of Assembly, *On petition relating to Contagious Diseases Act, Case of Christina Schafer*, 5 July 1894, (HA 369, ref: appendices 1), National Archives of South Africa, Cape Town Archives Repository (KAB).

wanted to see others on it too.<sup>391</sup> This shows how the system was open for corruption and influence. The system made no allowances for wrong information and it was extremely difficult to get someone's name removed from the register after it had been placed on it. Due to the system of money being given in return for the placing of names on the register, often there was no going back or checking whether the information given about someone being a prostitute was true or not. This led to many young women being sent in for examination unnecessarily. If women did not turn up for their examinations they were found and forced to undergo invasive procedures, and if they further refused they would be sentenced with disobeying the law. The examinations however were in no way pleasant and often the women who underwent them were caused pain and suffering. As a few of the women undergoing these procedures were not prostitutes there were cases where pregnant women were forced to undergo examination which often led to miscarriages and infertility.<sup>392</sup>

Along with its 'residents,' the Lock Hospitals administration was often a source of dissonance. To work in the Lock Hospital was not exactly a boastful occupation and the doctors who were sent to examine the women were not always at the top of their field. The salaries were also not of a very high level and often when a gap was caused by the dismissal of an employee, filling it was problematic due to the low wages.<sup>393</sup> Many of those employed by the Lock Hospitals felt that they should be paid more for being willing to examine and treat the 'class' of women that frequented the hospital.<sup>394</sup> In 1899 circular No. 42<sup>395</sup> addressed the issue of the Contagious Diseases conduct across the Districts and in the circular it states that some Districts have no independent record kept for the Contagious Diseases patients in the Magistrates Office. The system of record keeping was deemed important for two reasons, firstly as a way to manage payments to the District Surgeon who received 7s. 6d per case files. Secondly it was important for an independent record to be kept so that the Magistrate can be in the position to check the claims of the District Surgeon. Each case was to be recorded with the following information:

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<sup>391</sup> Cape Supreme Court, *The petition of Emma Contenti of Port Elizabeth*, 18 August 1892, (CSC 2/6/1/138, ref: 259/1892), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>392</sup> David Tennant, *Appeal to the Public by the Association for the Repeal of the Contagious Diseases Act, 1871*. Cape Town National Library: SABP 89 (4), 5.

<sup>393</sup> Colonial Office, *Simonstown Lock Hospital, Health Branch*, 1895 – 1903, (CO 7526, ref: 671), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>394</sup> Colonial Office, *Letters Received: Medical Committee, King Williams Town Hospital and Somerset Hospital*, 1869, (CO 905), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>395</sup> Colonial Office, *Register of Contagious Diseases Patients*, 1899, (CO 7676, ref: folio 1281), National Archives of South Africa, Cape Town Archives Repository (KAB).



Number, name of patient, place of residence, sex, race (European or coloured), date of commencement of treatment, date of cessation of treatment, date when last seen and remarks.<sup>396</sup>

This circular shows that for every case that was brought on to the books a payment was received, thus this can be seen as being a possible initiative for the wrongful accusations towards innocent women; placing them on the prostitute register for the sole purpose of money. Evidence concerning incidents like these may have not been enough to speculate that this happened all the time, but a case presented to the court in 1893, shows that it did indeed happen. This was the case of Christine Schafer and caused enough upheaval that a Select Committee hearing was held concerning these aspects of the Act that placed women in danger of wrongful accusations and the inability to clear their name once placed on the prostitution register.<sup>397</sup>

### 5.3.3. Blurring the Boundaries

The standard of medical service given to the women in the Lock Hospitals might not have been of the highest standard but what can definitely be said was that those employed to look after the ‘residents’ in the hospital certainly had a perception of who these women were and looked down upon them for what they did for a living. A letter from the Medical Officer concerning the increase of syphilis and gonohrea made special mention of the ‘class’ of women that entered into the Hospital for treatment.<sup>398</sup> The letter also makes mention of the difficulty in predicting whether someone was suffering from gonohrea or from a disease called *leucorrhoea*. This was stated as not being a contagious disease and was not associated with moral impurities. The letter makes reference to the similarities between the two diseases and the fact that misdiagnosis can take place. However he states that any error made was “done in the spirit of the Contagious Diseases Act.”<sup>399</sup> If many of the cases that were treated for syphilis were actually an infection of leucorrhoea, the stigma and morality concerns regarding the venereal disease may have not been as great as the number of infections indicated.

The chance however, according to the Medical Officer, of misdiagnosis is also not likely due to the fact that the ‘respectability’ and ‘class’ of the women who he works with could be recognised

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<sup>396</sup> Colonial Office, *Register of Contagious Diseases Patients*, 1899, (CO 7676, ref: folio 1281), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>397</sup> A.24-’94, Cape of Good Hope, *Report of the Select Committee on the Petitions relating to Contagious Diseases Act No.39 of 1885*, iii.

<sup>398</sup> Colonial Office, *Letters Received: Medical Committee, King Williams Town Hospital and Somerset Hospital*, 1869, (CO 905), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>399</sup> Colonial Office, *Letters Received: Medical Committee, King Williams Town Hospital and Somerset Hospital*, 1869, (CO 905), National Archives of South Africa, Cape Town Archives Repository (KAB).

easily and thus he could, upon this judgement, diagnose whether the women is suffering from gonohrea or from leucorrhoea.<sup>400</sup> Again this highlights the human element of the implementation of the Contagious Diseases Act and how the performance and functionality of the Acts could have easily been influenced by those who were put in charge. This attitude of ‘class’ and ‘respectability’ aligned with the statements given of the prostitutes in the Lock Hospital during the riots: the way the prostitutes described their treatment and that the doctors were not kind or gentle with them.<sup>401</sup> If the doctors all had an attitude of contempt and distain towards the women it could very well be understood that the women wanted to leave and got angry when they were detained for further treatment.

This distain and ill treatment of women often left much to be desired. A number of records show incidents occurring at the Lock Hospitals where the prostitutes who were undergoing treatment would get agitated and destroy hospital property or attack the hospital workers. This was mainly due to the fact that they were held at the Lock Hospitals for as long as the inspectors and matrons so desired them to be there. Often they would be promised release only to be informed that they needed to stay longer. Although an immoral and objectionable job, these women were part of a business sector, an undesirable one but a prosperous one. However the trade these women were part of was a ruthless one, filled with brothel keepers and “souteneurs,”<sup>402</sup> who, more often than not, earned their living off the girls they housed and ‘protected’, thus positions were quickly filled if any vacancy occurred due to prostitutes going to the Lock Hospitals.

One of the disturbance recorded for 1893 occurred on the 20<sup>th</sup> February. The women in the Lock Hospital became agitated due to being detained for longer than they thought they would be. The riot involved about 12 girls: Elizabeth Arberton, Charlotte du Toit, Louisa Hendricks, Lizzie Martin, Sarah Tobias, Ellen Trout, Lizzie Smith, Lena Paulse, Annie Arendse, Sarah Williams, Ester Stevenson, and Clara Isaacs. All of the prostitutes were named in the disturbance report and each one was given a chance to make a statement as to their involvement in the riot. These statements are very good firsthand accounts that are often not heard, especially as the voice of the prostitute is not one that is easily found in the historical record. The accused used the chance to

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<sup>400</sup> Colonial Office, *Letters Received: Medical Committee, King Williams Town Hospital and Somerset Hospital*, 1869, (CO 905), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>401</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>402</sup> Julia F.Solly, *The Legal Side of the Purity Question*, 1902. (*Women’s Christian Temperance Union*). Cape Town National library, SABP 186 (6), 2.



speak about more than just the events of the day and the disturbance that occurred. The girls took the opportunity to speak out about the treatment they received while in the Lock hospitals, many of the girls repeatedly claimed to have been hurt or complained of pain to the doctor during the routine inspection but nothing was done to ease the inspection.<sup>403</sup>

In one statement, made by Elizabeth Arberton, she said that previously, during the former Dr Impey's employment at the hospital, there was also an occasion where things were smashed. Both occasions were brought on by the fact that the doctors would not release the women from the hospital. However this occasion was due to the fact that "the doctor made fools" of them. He had at the previous weeks examination stated that the women had only a small amount of gonorrhoea and that by the following week they would be released. Upon examination the following week however the Doctor decided that some of the patients would not yet be released due to the extent of their infections. This made the patients angry as some of the patients who were set to be released had only been there for a week or so, whereas some, like Elizabeth Arberton, had been there well over a month prior to the riot.

Furthermore she emphasized the fact that the girls liked the previous doctor more as he did not use the "large instrument" instead, as explained by Lizzie Martin, he would put on rubber gloves and would proceed to use his fingers, which did not cause as much pain as the instrument. The current doctor, Dr. Waterston however insisted on using the instrument on the girls, which according to the statements, caused much bleeding and pain during, as well as, after examination. The fact that the girls experienced pain and bleeding upon examination was repeated throughout all the statements made. Every statement however was accompanied by a side note that stated that no complaint was submitted by any of the girls during the examination and thus the doctor had no way of knowing she was uncomfortable or in pain as there was also no blood that he was aware of.<sup>404</sup>

In a statement made by Louisa Hendricks she goes into more detail about the examinations and procedures and explains that the girls who were treated for gonorrhoea were painted internally. This is done using "the large instrument" which had been previously mentioned in Elizabeth Arberton's statement. Louisa explained that the procedure hurt very much and the last time she

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<sup>403</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>404</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

went in to be painted she thought her “insides were coming out [and] bled a lot.”<sup>405</sup> Every girl involved in, what they termed, “the smashing” was involved due to the fact that the doctor had lied to them about their condition and when they would be able to leave the hospital. All the girls mention in their statements that Dr. Waterston said to them that they would be released the next Monday, however the smashing was not due to the fact that the doctor did not let them go, it was because he had, week after week, said that next week the patients would be discharged and as the week approached he would inform them that they would have to stay in for another week and the girls became discontented with this treatment, which resulted in the riot.

In another report, given by Sarah Tobias, she supports the riot by stating that it was not only the lengthy delays before being discharged that caused an upset, but also the fact that the Dr. Waterston used the instrument which led them to experience a lot of pain. Ellen Trout stated that on one occasion after being treated she bled for 3 days due to the instrument being used.<sup>406</sup> Many of the women’s movements often used such cases when they spoke about the Contagious Diseases Acts and referred to the inspections as “instrumental rape”<sup>407</sup> and the use of these treatments and incarcerations as forms of male dominance.

The Matron, Mrs King, who was employed at the Lock Hospital during the riots, was also brought in to make a statement.<sup>408</sup> She stated that although no promises are made by the Doctor to the patients concerning details about their release, when he is asked he would always say he will see at the next week’s appointment. It was this detention and putting off of release that got the girls agitated and caused dissatisfaction. She made special mention to the fact that the girls did not complain during the examination but she did know that they would bleed afterwards and then would complain among themselves about the treatment. She concluded her statement by saying that the cases they had dealt with lately were all gonorrhoea cases. Previous years, when Dr. Ward was employed there, the majority of the cases were made up of syphilis cases, however

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<sup>405</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>406</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>407</sup> Mary Spongeburg, Barbara Caine & Anne Curthoys, *Companion to Women’s Historical Writing* (Basingstoke: Palgrave MacMillan, 2010)

<sup>408</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

she stated, if the hospital served only syphilis cases then they would shut down the institution due to lack of patients.<sup>409</sup>

The Lock Hospitals struggled overall with the unruly nature of its inmates and in Port Elizabeth a request on the 27<sup>th</sup> of May 1893, was put through to the Under Colonial Secretary by the Medical Inspector that a telephone line be installed at the hospital.<sup>410</sup> The expense of the connection would be £25 per annum and as put forth as a matter of urgency and necessity due to the isolation of the hospitals location. The letter also maintains that the patients were often drunk and out of control and if there was a direct line to the police, and the women knew this, they would possibly behave better and be easier to control. These statements are pivotal in the understanding of the regulatory practices in the Cape Colony. Through these the voice of the prostitute emerges and it can be seen that even in times of agitation and frustration for their circumstances, prostitutes were still able to assert themselves and plead their case.

The second riot reported as occurring less than a month after the previous disturbance, was on March the 3<sup>rd</sup> 1893. “Residents” of the Cape Town Lock Hospital were charged with malicious injury to property and assault to do grievous bodily harm. There were 15 prostitutes charged for acting out during this riot, out of these 15 mentioned, nine of them appeared previously to give statements due to their involvement in the other riot earlier that year. According to the lay inspector the accused were all staying at the Lock Hospital as part of the Contagious Diseases Act part 2, and needed to stay on due to unresolved Venereal Disease infection. The Monday morning inspection proceeded as usual and it was at this time that they would be told who was cleared to leave the hospital and who would still be staying on for further treatment. Those who started to cause problems were the ones that were told that they could not yet leave the hospital as they still needed to undergo further treatment. They threatened to assault the doctor for not granting them permission to leave; they broke windows and caused much damage to the Lock Hospital premises. This is an interesting record to look at as it is one of few where the statements that were taken from the accused gives great insight into the mindset of the prostitutes and not just the fact of the event occurred. The women were intensely unhappy in the Lock Hospital and felt they were not being treated properly. They felt that those working in the Lock Hospital

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<sup>409</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>410</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

showed negative attitudes towards the prostitutes and many of them lacked ‘humanity’ in their interactions with the women. The ‘residents’ were treated more like inmates in a jail.<sup>411</sup>

On the 27<sup>th</sup> of January 1893 the Under Colonial Secretary received a letter from the Medical Officer in charge at the Cape Town Lock Hospital. He wrote with regards to the continued damage made by the patients to the door knocker. The fact that the damages occurred again and again meant that the decision to adopt a different plan, one which offered “the minimum temptation to the mischievous” was put in place.<sup>412</sup> The request was made to put up a strong electric service bell, which would be more difficult to destroy. The cost of the service bell was quoted at being 3 pounds sterling.<sup>413</sup>

Being detained in the Lock Hospital also meant that the prostitutes were left without an income and also lost their places in brothels, being replaced by girls who could bring in an income for the brothel keepers. The brothel keepers were reportedly not the friendliest employers and documentation shows that prostitutes were also not always treated very well by brothel keepers, who took half their earnings as well as money for their board and lodgings. This is made clear when looking at the case made against John Sinclair, a coloured labourer, in 1889. John Sinclair was accused of assault and also for brothel keeping. He was found guilty of keeping a “disorderly house for the purpose of fornication to the great damage and common nuisance of Her Majesty’s Subjects.”<sup>414</sup> Furthermore he was found guilty of keeping and maintaining a house for the intent and purpose that women there might lend their bodies, for a price, “to the carnal knowledge.”<sup>415</sup> He was again accused later that year and found guilty of the crime assault with the intent to do grievous bodily harm. The victim of this assault was one of the prostitutes who resided in his brothel, a Lizzie Davis. In her statement against him she also divulges that he would take half the earning of all the girls in the brothel.

Under both the Contagious Diseases Acts and the Morality Act, brothel-keeping was viewed as a criminal offence. Although some of the Acts made allowances, one way or another, the

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<sup>411</sup> Attorney General of Cape Colony, *preliminary examinations: Elizabeth Aberson and fourteen others*, 23 January 1893, (AG 2956, ref: 20), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>412</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>413</sup> Colonial Office, *Letters Received: Lock Hospital*, 1893, (CO 1575), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>414</sup> Attorney General of Cape Colony, *preliminary examinations: John Sinclair*, 18 July 1889, (AG 2914, ref: 17), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>415</sup> Attorney General of Cape Colony, *preliminary examinations: John Sinclair*, 18 July 1889, (AG 2914, ref: 17), National Archives of South Africa, Cape Town Archives Repository (KAB).

underlying fact was that brothels were looked down upon and it was preferred that they did not exist. Although there are records that show complaints made against brothels, often they were ignored or inspected and then left to continue as before. The biggest case to be made it seems was in the case laid against Lena Smith, the owner of the brothel at 52 Barrack Street, and as later records show, also a prostitute. Early in January 1897 Lena was accused and detained for keeping a brothel. This came about after a number of neighbours began laying complaints against the women who seemed to reside there. William Morris, the neighbour at house 48, along with another neighbour, Mr. D. John complained that the girls outside the house would behave indecently, pulling up their dresses and exposing their legs to men passing by. There was one incident reported by this neighbour when one of the girls, no names were mentioned, pulled her skirt up well passed her hips. Accompanying this behaviour was foul language, with the use of words such as “bugger” and “bloody fools.”<sup>416</sup> The girls were seen calling to the men from the stoep of the house, often inviting them in and it was reported that a number of men took them up on those invites. A more detailed account stated that in one evening he saw 23 white men go into the house along with 17 coloured men. A petition was drawn up by the surrounding neighbours against the house as the accounts of women working as prostitutes became more publicly knowledgeable. It was also commented on in one of the statements that an incident occurred one evening, which could be heard for quite a distance, where the brothel keeper was apparently drunk and acted in a disorderly manner, beating one of the girls who lived and worked there<sup>417</sup>.

Prostitutes were also criminals beyond that of solicitation, delving into the life of petty theft in order to gain an extra bit of money. Due to the Contagious Diseases Act prostitutes were watched more closely than other criminals and often the women were caught on smaller offences and thus put on the record as well. One crime which had been recorded frequently enough was that of theft. The amount of cases that were documented makes the assumption possible that the prostitutes often stole from their customers on a regular basis to boost the salary they earned as prostitutes. One incident reported on the 18<sup>th</sup> of October 1899, was by a miner who had come down from the mines to visit Cape Town on his break from work. He was residing in Bree Street during his stay and went to 52 Barrack Street where he heard he could occupy a room for a while with a lady. The record states he went there for “immoral purposes.” William Walker states that

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<sup>416</sup> Attorney General of Cape Colony, *preliminary examinations: Lena Smith*, 14 January 1897, (AG 3026, ref: 179), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>417</sup> Attorney General of Cape Colony, *preliminary examinations: Lena Smith*, 14 January 1897, (AG 3026, ref: 179), National Archives of South Africa, Cape Town Archives Repository (KAB).

he had loose gold to the value of £45 in his belt pocket. After intercourse he states that there was only £13 left. No money was found lying on the floor or in the bed. He accused the prostitute, Lily Blank, of stealing the money during the course of their evening together as he notes that he felt her hands on his belt a number of times. The prostitute, it is interesting to note, was Russian and also recorded as later being part of the hospital riots. Lily Blanks name appears often on the Lock Hospital register.<sup>418</sup> Although the records show that the man was very careless with his money, this was stated by his friend who was with him that evening, who in his statement to the officers said that he was not sure that William Walker could positively identify that the amount of money he had was now less as he had often spent money throughout the trip down from the mines that he had not recollected having spent later on. However the record shows that although the man may have been in the wrong here the prostitute was still accused and often many of them, due to the simple fact of being prostitutes, were automatically assumed as the ones who were thieves or the liars and were sentenced with the crime.

Another reported case of prostitutes stealing was the rather unusual case of Fanny Heymann and Sarah Zimmerman. It is a peculiar case as it was not a standard theft case. The two prostitutes were accused of stealing £17 from Frederick Colborne, a retired clerk. Mr Frederick Colborne was lured into the house under false pretences. He was under the impression that someone in the house had been in need of help and had gone in to give his assistance. After realising the situation he had walked in on, he made to leave the premises upon which the accused attempted to stop him from leaving. They began trying to lure him in and the more he refused the more annoyed they became. The prostitutes began to accuse him of approaching them for immoral offerings and that now he was refusing to pay them. After much denial that he did not solicit them for such purposes and was not there for immoral reasons, the two prostitutes robbed him of his purse and released him.<sup>419</sup> This case shows how desperate some prostitutes were for an income, and how their circumstances often drove them to partake in acts of petty crime.

### **5.3.4. The Continental Cape**

Incidents of petty crime and unlawful disturbances became more visible in the late 1890s. One contributing factor that this growth can be linked to is the increase in international interest in the

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<sup>418</sup> Attorney General of Cape Colony, *preliminary examinations: Lily Blank*, 19 October 1899, (AG 3060, ref: 157), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>419</sup> Attorney General of Cape Colony, *preliminary examinations: Fanny Herman & Sarah Zimmerman*, 7 September 1901, (AG 3100, ref: 164/335/1901), National Archives of South Africa, Cape Town Archives Repository (KAB).

country. Although the prostitutes in the Cape Colony were always polyglot in nature,<sup>420</sup> the latter years of the nineteenth century brought with it a real influx of internationals. This era saw one of the greatest economic development booms in the history of the Cape Colony, mainly due to the mineral revolution. Although the discovery of diamonds was in Griqualand West and gold was found in the Witwatersrand, neither of which fell under the Cape Colony constituency, these discoveries had lasting effects on all aspects of the Cape.

One aspect it had a particular effect on was that of prostitution. Due to the Contagious Diseases Acts periodical examinations, and the aversion towards all workings of the Act the developing mining towns of the interior became enticing locations for prostitutes and pimps to move to. These mining towns, as well as falling outside of any scheduled areas where prostitution population was recorded, held one particular element imperative to the prostitution trade – single men. The rapid economic development during this time and the beginning of the age of cheap steamship travel opened the colony up to the world and the Witwatersrand and outlying areas became the destination of Russians, Germans, Hollanders, Norwegians, Italians, the French, the Swiss as well as the ubiquitous British, American and Australians, all searching for better opportunities.<sup>421</sup>

Pimps, or ‘souteneurs’, making a living off the earnings of prostitutes, also became a booming trade during this time. The growth of prostitution in the diamond and gold towns of South Africa was primarily also as a result of timing. Major industrial progress was taking place much later than in other nations: while the international price of tin was falling, Australian gold fields were failing and the Great Depression was at its height, South Africa was flourishing. Thus where the markets for prostitution were declining in the rest of the world, South Africa was opening a fresh opportunity for it.<sup>422</sup> These areas became breeding grounds for a life of sin, as the landscape was dominated by single, unmarried men. However men who were married often lived as single men in the mining camps and were also susceptible to the exposure of prostitution. The working class culture during this time revolved around drinking, gambling and prostitution and thus drew many fortune seeking prostitutes to that area. Many of these prostitutes, like the men, came from all

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<sup>420</sup> Elizabeth van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 181

<sup>421</sup> L. Lange, *White, poor and angry: white working class families in Johannesburg*, (Ashgate: 2003), 13.

<sup>422</sup> Charles Van Onselen, *Studies in the social and economic history of the Witwatersrand, 1886 – 1914, Part 1: New Babylon* (Johannesburg: Raven Press, 1982).



over Europe and much of the rest of the world, to seek better ‘fortunes.’<sup>423</sup> In Johannesburg, this earned them the nickname “ladies of fortune.”<sup>424</sup>

Although a clear trend existed for women from other countries to head straight North to the mining towns, it was more common for prostitutes to settle into Cape Town, this however resulted in disrupting the “modus vivendi”<sup>425</sup> that had been established between the prostitutes, the lay inspectors and the police. Many of the local girls were ousted by these international professionals and retreated to the Transvaal to seek new pickings. A summary of the prostitutes in the north showed that although a number of black prostitutes existed, the sector was dominated by coloured and white prostitutes. Japanese women also made an impression as prostitutes but the records show most of the girls were drawn from within South Africa.<sup>426</sup>

Initially authorities in the Cape were inclined to favour these new ‘continental’ girls as they were described as being well behaved and more careful of diseases, however, it soon became clear that they were often linked to international crime syndicates and caused problems in a way the local girls never had.<sup>427</sup> An area of concern that grew in abundance during this time was one discussed in a previous chapter, and that was the trade in girls. Cases such as the previously mentioned Fanny Kohlar<sup>428</sup> incident and the Jacqmin sisters,<sup>429</sup> where women were brought over under false pretences and forced into prostitution, became more frequently documented.

### 5.3.5. The Final Years

In 1898 a number of new Acts were introduced, the “Police Offences Amendment Act”, for example, extended punishments for soliciting and penalised pimping and prostitution. This caused significant difficulties for the Contagious Diseases Act as the harassment of brothel keepers and prostitutes caused problems within the workings of the Act. Firstly the prostitutes

<sup>423</sup> L.Lange: **White, poor and angry: white working class families in Johannesburg**, p. 13.

<sup>424</sup> Charles Van Onselen, *Studies in the social and economic history of the Witwatersrand, 1886 – 1914, Part 1: New Babylon* (Johannesburg: Raven Press, 1982).

<sup>425</sup> Elizabeth van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 185.

<sup>426</sup> Charles Van Onselen, *Studies in the social and economic history of the Witwatersrand, 1886 – 1914, Part 1: New Babylon* (Johannesburg: Raven Press, 1982).

<sup>427</sup> Elizabeth van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 185.

<sup>428</sup> Attorney General of Cape Colony, *preliminary examinations: Annie Marshall alias Hannah Alexander*, 10 May 1902, (AG 3114, ref: 3777), National Archives of South Africa, Cape Town Archives Repository (KAB).

<sup>429</sup> Attorney General of Cape Colony, *preliminary examinations: Joseph Davis & Marguerite de Theiss*, 11 November 1901, (AG 3118, ref: 43 and 44), National Archives of South Africa, Cape Town Archives Repository (KAB).

lost any fixed address that may have been on record, thus making it difficult to seek them out for treatment and secondly, the women went into hiding and were reluctant to come forward for examinations as they feared they would be punished. By the end of the following year, combined with wartime agitations, mild panic spread through the Cape, and letters and reports filled newspapers on a daily basis with reports of misdemeanours and other crime related transgressions.<sup>430</sup> The South African War, although pivotal in the overall history of the country, caused little effect on the workings of the Contagious Diseases Act. An effect previously noted as being a consequence of the mineral boom can also be seen as having links with the war. This was the increase in crime. Prominent Rand criminals based themselves in Cape Town during wartime and began to establish methods which they had adopted, and had success with, in the Transvaal.<sup>431</sup> This wartime crime situation was likely to have been temporary; however the mild panic among those living in the Cape meant that the situation was regarded as a permanent one, needing permanent restraint.

Although the scope of this research lies predominantly within in the 1800s, the Morality Act of 1902<sup>432</sup> had a lasting effect on the role of the Contagious Diseases Act and its workings. In 1902 the Morality Act was introduced as a means to suppress vice.<sup>433</sup> The problem that this caused however was that in 1902 the Contagious Diseases Act was still enacted, thus resulting in a form of stalemate between the workings of the two Acts. One of the Acts recognised that vice exists and endeavoured to facilitate it by removing the consequences, venereal disease, through the state regulation of prostitution. The other, the newly implemented Morality Act, declared vice an evil needing suppression.<sup>434</sup>

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<sup>430</sup> Elizabeth van Heyningen, "The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts," *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 192

<sup>431</sup> Elizabeth van Heyningen, "The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts," *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 192 & Charles Van Onselen, *Studies in the social and economic history of the Witwatersrand, 1886 – 1914, Part 1: New Babylon* (Johannesburg: Raven Press, 1982).

<sup>432</sup> Julia F.Solly, *State Regulation of Vice, Read Before a Meeting of the Women's Enfranchisement League (Cape Province). On Behalf of the International Federation for Abolition of the State Regulation of Vice*. Printed on the request of Mr John Brown and Mrs Beresford, (1906). 8

<sup>433</sup> Julia F.Solly, *State Regulation of Vice, Read Before a Meeting of the Women's Enfranchisement League (Cape Province). On Behalf of the International Federation for Abolition of the State Regulation of Vice*. Printed on the request of Mr John Brown and Mrs Beresford, (1906). 8

<sup>434</sup> Julia F.Solly, *State Regulation of Vice, Read Before a Meeting of the Women's Enfranchisement League (Cape Province). On Behalf of the International Federation for Abolition of the State Regulation of Vice*. Printed on the request of Mr John Brown and Mrs Beresford, (1906), 7.

Comparing discussions on the Contagious Diseases Acts and those surrounding the Morality Act,<sup>435</sup> it is clear to note the considerable shift in social perspectives. One perspective, highlighted by a speech given during a debate on the Morality Act, was that prostitutes were no longer solely to blame for the spread of venereal disease. The attitude towards prostitutes was that they were more passively involved and it was seen that men were both the instigators, as well as, the benefactors of the trade. Where once the responsibility of vice, venereal diseases and the entire trade fell on the prostitutes, it was now seen that men were not only largely responsible for all of the above, but also for the “plight of fallen women.”<sup>436</sup>

As the decade wore on, post-war depression settled in and the Union was established, the booming years of organised crime and prostitution too began to dwindle. In 1919 the Contagious Diseases Act was finally repealed and replaced with the first “Union Public Health Bill.”

#### 5.4. Conclusion

Venereal Disease, and the attempt to control it, has played a significant role in both the social and cultural history of the Cape Colony. It has as R. Davidson and L.A Hall put it: “In its social constructions, it has reflected and reinforced society’s most basic assumptions and beliefs...”<sup>437</sup> Not only has venereal disease and the implementation of the Contagious Diseases Acts helped to shape and articulate perceptions of sexuality, it has also provided a rich field of study in which the response to public health and the way in which it moulded perceptions on sexual and gender behaviours can be studied.

The Contagious Diseases Act of 1885 and the variety of responses surrounding its implementation generated a large amount of focus on socially accepted attitudes and values. One particular social norm that was emphasised significantly with regards to the Acts was that of gender roles. The change and evolvement of this mind set can clearly be seen in the emergence of the Morality Act in 1902. The focus of this chapter lay in the facts surrounding the role of the Contagious Diseases Act of 1885. Based on archival evidence it can be seen that Cape society

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<sup>435</sup> A.24-’94, Cape of Good Hope, *Report of the Select Committee on the Petitions relating to Contagious Diseases Act No.39 of 1885*, iii. House of Assembly, *Annexures, Orders of the House*, 5 September 1899, (HA 465, ref: 605), National Archives of South Africa, Cape Town Archives Repository (KAB) & C.5-’95, Cape of Good Hope, *Report of the Select Committee on the Contagious Diseases Act Amendment Bill*.

<sup>436</sup> Elizabeth van Heyningen, “The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts,” *Journal of Southern African Studies* 10, No. 2 (Apr., 1984), 193

<sup>437</sup> Roger Davidson & Lesley A. Hall, *Sex, Sin and Suffering, venereal disease and European Society since 1870*, (London: Routledge, 2001), 1.

was both affected and changed by the existence of these Acts. However the facts would merely be a retelling of statistical data if a certain level of theoretical understanding did not enter into the research. This chapter has proven that aspects such as generalised masculine and feminine roles, crime, corruption, societal norms as well as the treatment of women played pivotal roles in the workings of the Acts.

## Chapter 6:

### Conclusion

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By the early 1900s the world had gone through some far-reaching changes. The British Empire was rapidly expanding as well, and taking with it, influences that would have lasting effects. The Cape Colony had also undergone drastic transformation. Far from the days of the earlier settler colony, the discovery of diamonds and gold had propelled South Africa onto the international radar. Along with the South Africa War, by 1910 the four separate British colonies, the Cape Colony, Natal Colony, Transvaal Colony and the Orange River Colony, were incorporated under the South African Union. However it was within this phase of change which began to occur from the late 1880s and 1890s which specifically sets the Cape Colony apart.

This thesis sets out to consider the role the Contagious Disease Acts, along with other regulatory practices, had on societal structures and attitudes at the Cape. Secondly it looked at how the Cape differed from Britain and the four other colonies briefly analysed in this research, as well as possible similarities. The three themes, gender, power and moral politics create a more theoretical base on which to study the events and circumstances which led to the developments of prominent movements, repeals and societal changes. These themes assist in the reading of archival material and create a base off of which the colonies, Britain and the Cape Colony can be studied. Through the study of these archival sources this study has thus sought to bring to light the existence of regulatory practices, the dissatisfaction towards them, as well as towards the treatment of women, and the comparative lack of a significant women's movement during that time.

All these aspects contribute to the overall questions surrounding this topic. If the Contagious Diseases Acts and prior regulatory practices did exist in the Colony, and there was frequent reports and correspondence concerning these practices, why then does the Cape Colony feature with such paucity in the discourses surrounding prostitution, disease and vice in the British Empire. From the medical reports, and the criminal proceedings against prostitutes, it can certainly be gauged that the Cape Colony was not without its incidences. Much dissatisfaction can also be discovered, from prostitutes, male supporters of the repeal Acts, as well as, although only much later, women's organisations. However, unlike in Britain, the fight against the Contagious Diseases Act did not become such an open public debate. Society as a whole was not

inspired to fight solely against this one cause as it did in England. With the pressures of War and the industrial boom in the country it can be understood that this sector went by fairly ignored by the masses. For the Select Committees and medical officials though, the infection rate, and the prostitution problem, was an ongoing struggle. The support from middle and upper class women, like that given in England, did not occur in the Cape Colony until well after the War. Thus when the focus was on the Contagious Diseases Acts in Britain and the rest of the world was successfully fighting to abolish the Act, the Cape Colony was only just starting its implementation of the 1885 Act. The Cape was interestingly not influenced as greatly during this time, attention to the Acts was mostly paid by those in the Select Committees, medical officials or an odd British enthusiast.

According to much of the evidence found in the South African Bound Pamphlets and other research done on women during this time, it can be concluded that a women's 'movement' only truly came to life after the South Africa War had subsided and the merger of the colonies under the South African Union. This however meant that the colony and the protestors were a mere echo of what had already been done in England and the rest of the British Empire, fighting a fight that had already been fought.

In terms of gender, power and moral politics the evidence does show that the Cape Colony deviated in many ways from the other colonies as well as from Britain. However it also shows some similarities in the creations. In terms of women, the double standard and the domestic thesis it can be noted that the existence of married couples, and thus the influence of the domestic thesis would have been more prominent in the Cape than possibly in India or the Asian colonies as the Cape was deemed more appropriate for women to live in. Thus the influence of the ideal roles of men and women would have been clearly more dominant in the Colony. Although, like other colonies, the military still did not provide wages and support enough for lower ranking men, and often higher ranking men to marry and there still would have been a disproportionate amount of English men to the British women. However politicians, lawyers and other state men were known to have wives and often children in the country as it was seen as climatically safe for women to reside in, unlike the environments of most of Africa, India and the Asian colonies. The dynamic of the colony would have then more closely resembled that of Britain, than the more exotic and oriental India and Asia.

Power as a theoretical aspect can be seen as an interesting dynamic in the Cape Colony. What sets the Colony apart from the researched Colonies of Singapore, Hong Kong and India was that there was not one dominant colonial that was presiding over a colonised local population. South Africa was made up of four British Colonies at that stage, all of which had differing populations with the local racial groups differing throughout the four Colonies. In the Cape the predominant population was the Coloured, Malays and “Hottentots”. However the power dynamic between the Afrikaners and the British played a large part in the role of power in the Colony. Attention was shifted more towards economic power, with the discovery of diamonds and gold,<sup>438</sup> than sexual power. However with the ongoing skirmishes throughout the various colonies, the existence of sexual dominance would always have been present.

Moral politics can be seen as, although not entirely deviant from the rest of the Empire, but rather having existed at a later stage than the rest. While Britain was going into the final stages of the fight against the Contagious Diseases Act, possibly success of abolishment nearing, the Cape was putting the final touches on the last implementation phase of the 1885 Contagious Diseases Act. The break in focus due to the South Africa War meant that the Cape, and especially women at the Cape, was far behind that of the British come the twentieth century. The collaboration and restructuring of South Africa under the new Union meant too that the shift was again focused away from the problem of women, prostitution, vice and the age of consent. By the time the discussion turned to such topics as the age of consent debate, Britain had already raised theirs, as well as many other colonies. The suffrage movement that followed shortly on the heels of the purity campaign in the rest of the world would only truly settle in South Africa many years later.

Although the Cape Colony certainly deviates from the anticipated reactions and events of India, Singapore and Hong Kong, it brings forward its own unique set of problems and circumstances which accordingly influenced its reactions to the Contagious Diseases Acts, prostitution and male vice. However the abundance of archival evidence available for analysis, the complex structure of the Cape Colony, as well as the changing dynamic due to skirmishes, the South African War, the industrial boom and the ensuing power play means that the Cape Colony is certainly a Colony with a deep history of diseases, vice and sexuality.

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<sup>438</sup> For further reading on the power play of the Witwatersrand, Charles Van Onselen, *Studies in the social and economic history of the Witwatersrand, 1886 – 1914, Part I: New Babylon and Part II: New Nineveh* (Johannesburg: Raven Press, 1982).



Thus, through the comparative study of Britain, India, Singapore, Hong Kong and Australia, the analyses of the three theoretical concepts, and the in depth analyses of the events, Acts, influences and reactions at the Cape it can be seen that the study of the Cape Colony has much to offer in terms of comparative discourse. Although pieces of the puzzle exists the whole picture of the history of vice, disease, prostitution and the Contagious Diseases Act in the entire South Africa during this prominent time in history is a story yet to be written.

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